SUPREME COURT OF THE UNITED STATES,

No. 208.

JACOB STRADER, JAMES GORMAN, AND JOHN ARMSTRONG, PLAINTIFFS IN ERROR,

vs.

CHRISTOPHER GRAHAM.

IN ERROR TO THE COURT OF APPEALS FOR THE STATE OF KENTUCKY.

(FIRST CASE.)

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Pleas before Marshall, chief justice, and Breck and Simpson, judges, composing the court of appeals for the State of Kentucky, at the Capitol, in Frankfort, 4th October, 1847, and in the 56th year of the commonwealth.

Upon a writ of error to a decree of the Louisville chancery court.

STRADER AND GORMAN, plaintiffs,
against
CHRISTOPHER GRAHAM, defendant,
and vice versa.

Be it remembered, that on the 8th day of March, 1844, the following transcript of the record from the Louisville chancery court was filed.

COMMONWEALTH OF KENTUCKY,
Louisville chancery court, sct:

Pleas before the honorable George M. Bibb, sole judge of the Louisville chancery court, at the court-house in the city of Louisville on the 5th day of March, 1844.

CHRISTOPHER GRAHAM, complainant,
against
JACOB STRADER AND JAMES GORMAN, defendants, owners of steamboat "Pike." } In chancery.

Order filing bill and granting attachment.

Be it remembered, that heretofore "to wit," at a court held for the court aforesaid, on the 21st of September, 1841, came the complainant by his counsel, and filed his bill herein, and moved the court thereon for an attachment agreeably to the prayer thereof; whereupon, it is ordered, that the clerk endorse the process when issued, directing the marshal to seize, attach, and hold the steamboat Pike, her engine, tackle, apparel, and furniture, to satisfy the complainant the sum of $5,000; but the attached property may be replevied if the defendants, or either of them, shall give bond to the complainant in the penalty of $5,000, with security to be approved by the marshal, conditioned to answer such order or decree as the court shall make upon the matters of the bill, or have said boats, &c., forthcoming, if the court shall so order.

But this order is suspended until the complainant shall give bond to the defendants, jointly and severally, in the clerk's office of this court, in the penalty of $10,000, with security to be approved by the clerk,

conditioned to pay to the defendants, or either of them, all damages and costs occasioned by the attachment prayed, if found wrongful; which bill is in the words and figures "to wit:"

Bill.

To the honorable the judge of the Louisville chancery court: Your orator, Christopher Graham, would state to your honor, that he was and is the owner of a yellow man, slave, by the name of George, about five feet ten inches high, well formed and likely, about 20 or 21 years old, a musician, and of the value of about fifteen hundred dollars; and also of a yellow man, slave, named Reuben, about six feet in height, slender made, well formed, likely, and about twenty-one years old, a musician, of the value of about fifteen hundred dollars; and also of a yellow man, slave, named Henry, about five feet ten inches in height, twenty-one years old, and of a fine countenance, and fleshy, a musician, and of the value of about fifteen hundred dollars.

That said slaves left his residence at Harrodsburg, Kentucky, and made their way to Louisville, and from thence were taken on board a steamboat called the Pike, plying between Louisville, in the State of Kentucky, and Cincinnati, in the State of Ohio, and belonging to Jacob Strader and Gorman, and were carried on said boat from Louisville, or some other point in the State of Kentucky, and landed in Cincinnati, in the State of Ohio, from whence they escaped through the State of Ohio to the lakes, and crossed into Canada, a province of the British Empire.

Your orator states and charges, that he was at great trouble [and] expense in endeavoring to recover said slaves, and did not expend less than dollars. That Strader and Gorman reside in the city of Cincinnati, out of the jurisdiction of this State, and said boat is now within the State, and he is advised that, by law, he has a lien on said boat for the damages he has sustained, by reason of so taking said slaves on said boat and landing them in the State of Ohio. He is apprehensive that said Strader and Gorman will cause said boat to be removed out of the jurisdiction of this State, and keep out of the same, so that his lien will be of no avail.

He prays that said boat be attached, and Strader and Gorman made defendants hereto, and that they answer this bill. And on final [hearing] he prays a decree for the damages he has sustained, and that said boat be sold to raise the amount; and he prays for general and equitable relief, &c.

GUTHRIE & TYLER.

This day James Graham made oath before the undersigned, that he is acting as the agent of his father, who resides in Harrodsburg, Kentucky, and that the allegations of the foregoing bill made of his own knowledge, and those of information, he believes to be true.

Given under my hand this 16th of September, 1841.

GEO. W. CHAMBER, *J. P. J. C.*

And on the 23d of September, 1841, the complainant executed the following attachment bond, "to wit:"

Attachment bond.

Know all men by these presents, that we, Christopher Graham and Aris Throckmorton, are held and firmly bound unto Jacob Strader and Gorman, jointly and severally, in the just and full sum of ten thousand dollars; for the true payment of which, we bind ourselves, our heirs, &c.

Signed with our hands, and sealed with our seals, this 23d day of September, 1841.

The condition of the above obligation is such, that whereas the above bound Christopher Graham has prayed for, and obtained from the chancellor of the Louisville chancery court, an order for an attachment against the steamboat "Pike," her engine, tackel, &c., to be held, unless replevied, to pay the complainant $5,000, until the matters of the bill shall be heard in equity, or until the further order of the court.

Now, if the said Christopher Graham and Aris Throckmorton, or either of them, shall well and truly satisfy and pay the said defendants, or either of them, all damages and costs, and damages occasioned by the attachment if found wrongful, then this obligation to be void, else to remain in full force and effect.

[SEAL.]
A. THROCKMORTON. [SEAL.]

STATE OF KENTUCKY,
Louisville chancery court, sct:

Aris Throckmorton this day made oath before me, that he is able to pay the penalty of the above bond, which is $10,000, after the payment of all his just debts.

A. THROCKMORTON.

Test: CH. J. MENG, *D. C.*

And on the same day, to wit, the 23d September, 1841, the following subpœna and attachment issued, "to wit:"

Supbœna and attachment.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We command you to summon Jacob Strader and Gorman, to appear before the chancellor, in the city of Louisville, on the 4th Monday of September, (present,) to answer a bill in chancery exhibited against them by Christopher Graham; and this they are cautioned not to omit under the penalty and warning hereby given, that unless they shall appear and answer the said bill within 30 days from the day of the service hereof, the complainant may proceed against such defaulters,

to file interrogatories and *and* take proof of the matters of the said bill, or may have an attachment to compel an answer, or at his election may take the said bill for confessed, and the cause will be tried without further warning; all of which you will give notice to the defendant to take heed, and that you have then and there this writ, with your due return*ed* endorsed.

Teste: Charles J. Clarke, clerk of said court, this 23d day of September, 1841, and in the 50th year of the commonwealth.

CH. J. CLARK.

By order of the chancellor.

Attachment.

The marshal is hereby directed to seize, attach, and hold the steamboat Pike, her engine, tackel, apparel, and furniture, to satisfy the complainant the sum of $5,000. But the attached property may be replevied if the defendants, or either of them, or some one for them, shall give bond to the complainant in the penalty of $5,000, with security to be approved by the marshal, conditioned to answer such order or decree as the court shall make upon the matters of the bill, or to have the said boat, &c., forthcoming if the court shall so order. The complainant has given bond as directed by the Chancellor.

Att: CH. J. CLARKE, *C.*

Marshal's return.

Upon which the marshal made the following return, " to wit," not found.

WM. A. COCKE, *M. L. C. C.*

And on the 28th of September, 1841, the following subpœna and alias attachment issued, to wit:

Alias subpœna and attachment.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We again command you to summon Jacob Strader and Gorman to appear before the Chancellor in the city of Louisville, on the 4th Monday of December next, to answer a bill in chancery exhibited against them by Christopher Graham, and this they are cautioned not to omit, under the penalty and warning hereby given, that unless they shall appear and answer the said bill within thirty days from the day of the service hereof, the complainant *the complainant* may proceed against such defaulter, to file interrogatories and take proof of the matters of the said bill, or may have an attachment to compel an answer, or at his election may take the said bill for confessed, and the cause will be tried without further warning; of all of which you will give notice to the de-

fendant to take heed, and that you have then and there this writ, with your due return thereon endorsed.

Teste: Charles J. Clarke, clerk of our said court, this 28th day of September, 1841, and in the 50th year of the commonwealth.

CH. J. CLARKE.

By order of the chancellor.

Attachment.

The marshal is hereby directed to seize, attach, and hold the steamboat Pike, her engine, tackel, apparel, and furniture, to satisfy the complainant the sum of $5,000. But the attached property may be replevied, if the defendants, or either of them, or some one for them, shall give bond to the complainant in the penalty of $5,000, with security to be approved by the marshal, conditioned to answer such order or decree as the court shall make upon the matters of the bill, or to have the said boat, &c., forthcoming if the court shall so order.

The complainant has given bond as directed by the Chancellor.

Att: CH. J. CLARKE, *C. L. C. C.*

Marshal's return.

Upon which the marshal made the following return, to wit, not found.

WM. A. COCKE, *M. L. C. C.*

And on the 17th of October, 1841, the following alias subpœna and attachment issued, "to wit:"

Alias subpœna and attachment.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We again command you to summon Jacob Strader and Gorman, to appear before the Chancellor in the city of Louisville, on the 4th Monday of October, present, to answer a bill in chancery exhibited against them by Christopher Graham, and this they are cautioned not to omit under the penalty and warning hereby given, that unless they shall appear and answer the said bill within thirty days from the day of the service hereof, the complainant may proceed against such defaulter to file interrogatories and take proof of the matters of the said bill, or may have an attachment to compel an answer, or at his election may take the said bill for confessed, and the cause will be tried without further warning; all which you will give notice to the defendant to take heed, and that you have then and there this writ, with your due return endorsed.

Teste: Charles J. Clarke, clerk of said court, this 11th day of October, 1841, and in the 50th year of the commonwealth.

CH. J. CLARKE.

By order of the chancellor:

The marshal is directed to seize, attach, and hold the steamboat Pike, her engine, tackel, apparel, and furniture, to satisfy the complainant the sum of $5,000. But the attached property may be replevied if the defendants, or either of them, or some one for them, shall give bond to the complainant in the penalty of $5,000, with security to be approved by the marshal, conditioned to answer such order or decree as the court shall make upon the matters of the bill, or to have the said boat, &c., forthcoming if the court shall so order. The complainant has given bond as directed by the Chancellor.

Att: CH. J. CLARKE, *C.*

Marshal's return.

Upon which the marshal made the following return, " to wit," not found.

WM. A. COCKE, *M. L. C. C.*

And on the 25th of November, 1841, the following alias subpœna and attachment issued, to wit:

Alias subpœna and attachment.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We again command you to summon Jacob Strader and Gorman to appear before the Chancellor in the city of Louisville, on the 4th Monday of December next, to answer a bill in chancery exhibited against them by Christopher Graham, and this they are cautioned not to omit, under the penalty and warning hereby given, that unless they shall appear and answer the said bill within thirty days from the date of the service hereof, the complainant may proceed against such defaulter, to file interrogatories and take proof of the matters of the said bill, or may have an attachment to compel an answer, or at his election may take the said bill for confessed, and the cause will be tried without further warning; of all of which you will give notice to the defendant to take heed, and that you have then and there this writ, with your due return endorsed.

Teste: Charles J. Clarke, clerk of our said court, this 25th day of November, 1841, and in the 50th year of the commonwealth.

CH. J. CLARKE.

By order of the chancellor:

The marshal is directed to seize, attach, and hold the steamboat Pike, her engine, tackel, apparel, and furniture, to satisfy the complainant the sum of $5,000. But the attached property may be replevied if the defendants, or either of them, or some one for them, shall give bond to the complainant in the penalty of $5,000, with security

to be approved by the marshal, conditioned to answer such order as the court shall make upon the matters of the bill, or to have the said boat, &c., forthcoming if the court shall so order.

The complainant has given bond as directed by the Chancellor.

Att. CH. J. CLARKE, *C.*

Upon which the marshal made the following return, "to wit:"

Marshal's return.

Came to hand 26th November, 1841, and levied same day on the steamboat Pike, her engine, furniture, &c.; and John Armstrong, captain of said boat, gave bond as required, with Charles M. Strader, as security, and restored them the boat; Jacob Strader and Gorman reside in Cincinnati, Ohio, and are no inhabitants of this commonwealth.

WM. A. COCKE, *M. L. C. C.*

The foregoing subpœna is endorsed as follows:

Defendant's bond.

We, John Armstrong, principal, and Charles M. Strader, security, acknowledge ourselves indebted to Christopher Graham, in the sum of five thousand dollars, for the payment of which we bind ourselves, our heirs, &c., jointly and severally. Witness our hands this 26th day of November, 1841; nevertheless to be void, if they, or either of them, shall do and perform such order or orders as the court shall make upon the matters of the bill alluded to in this process, or have the steamboat Pike, her engine, furniture, &c., forthcoming, if the court shall so order it.

JOHN ARMSTRONG,
C. M. STRADER.

Teste: WM. A. COCKE, *M. L. C. C.*

Order filing marshal's charge.

And at a court held for the court aforesaid, on the 26th of November, 1841, the charge of the marshal, W. A. Cocke, for $35.00, for attaching and bonding the boat attached herein, was this day produced in court, which is ordered to be filed and laid over one week for exceptions.

Which charge is in these words and figures to wit:

Marshal's charge.

Christopher Graham, Dr.

To the Marshal of the Louisville chancery court.

Nov. 26, 1841. For attaching and bonding steamboat Pike for $5.000. $35.00

WM. A. COCKE, *M. L. C. C.*

Order allowing marshal's charge.

And at a court held for the court aforesaid, on the 4th of January, 1842, the charge of the marshal, Wm. A. Cocke, of $35.00, for commissions on the amount attached for herein, having been filed and laid over more than one week for exceptions, and none being taken thereto, it is therefore ordered, that the same be allowed him, to be paid by the complainant, and taxed as costs.

Order filing Strader and Gorman's answer.

And at a court held for the court aforesaid, on the 4th of March, 1842, came the defendants Strader and Gorman, and filed their answer herein.

Which answer is in the words and figures, to wit:

In the Louisville chancery court.

GRAHAM, vs. STEAMBOAT PIKE.

The answer of the defendants Strader and Gorman.

Answer of Strader and Gorman.

These respondents, saving, &c., for answer to so much of said bill as they are advised it is material for them to answer unto, admit that they are the owners of the steamboat Pike, and that they reside in the city of Cincinnati, in the State of Ohio.

Respondents further answering say, that neither of them were on board the steamboat Pike at the alleged time of the grievance complained of in the complainant's bill. That said boat was then under the command and direction of Captain John Armstrong.

Respondents do not know, and therefore deny, that complainant was and is the owner of a yellow man, slave, by the name of George, about five feet ten inches high, and of the value of fifteen hundred dollars. They deny that complainant owned the slave Reuben, or that he was of the value of fifteen hundred dollars. They deny that he owned the slave Henry, or that he was of the value of fifteen hundred dollars; but they are willing to admit that the said slaves were musicians.

Respondents have no knowledge of the charge, and therefore deny it, "that the said slaves left complainant's residence in Harrodsburgh, Kentucky, and made their way to Louisville, and from thence were taken on board the said steamboat Pike." They deny that said slaves were carried on board said boat from Louisville, or any other point in the State of Kentucky, and landed in Cincinnati, in the State of Ohio, from whence they escaped through the State of Ohio to the lakes, and crossed into Canada, a province of the British Empire.

Respondents do not know that complainant lost the slaves as charged in the bill; and they do not know, and therefore deny, that he was at

great trouble and expense in endeavoring to recover said slaves; and they deny that he did not expend less than $; said boat has, ever since she was built, except when prevented by ice or low water, been engaged as a regular mail packet between Louisville and Cincinnati, leaving each city every alternate day, except for a short time in 1840; and respondents do not believe, and they therefore deny, that complainant was apprehensive that they would take said boat out of the commonwealth, and keep her out.

Further answering, respondents would state, that they have been informed, and so charge the fact to be, that said slaves are musicians, and have been (since a long time previous to their alleged escape) allowed by the plaintiff to travel about as free negroes; that they have been allowed by plaintiff to play at parties, public and private, and to receive their wages earned by them; and that they have frequently been allowed by plaintiff to go out of the commonwealth as if they were free.

These respondents insist that this court has no jurisdiction of this case; that the attachment was wrongful; that the proper parties are not before the court; and that complainant's bill is not good in law; and that said boat had a right to navigate the Ohio river, and that she hailed from and belonged to Cincinnati.

Having answered, they pray to be hence dismissed with their costs, &c.

DUNCAN & RIPLEY, *P. Q.*

CITY OF CINCINNATI, *sct:*

This day Jacob Strader and James Gorman made oath before me, the mayor of said city, that the statements of the foregoing answer, so far as made of their own knowledge are true, and so far as made from the information of others, he believes them to be true.

[L. S.] Witness their signatures and their attestations of the same, and my official seal this 1st day of March, 1842.

JACOB STRADER,
JAMES GORMAN,
SAML. W. DAVIES, *Mayor*.

Order filing Strader and Gorman's amended answer.

And at a court held for the court aforesaid, on the 25th of March, 1842, came the defendants Strader and Gorman, by their counsel, and by leave of the court filed an amended answer herein.

Which amended answer is as follows, to wit:

Amended answer.

GRAHAM
vs.
STEAMBOAT PIKE.

The defendants Strader and Gorman, by leave of court, amend their former answer, in this: Respondents are informed and assert that

complainant allowed the slaves in his bill mentioned to come to Louisville to live with Williams, a free man of color, to learn music; and that he hired them to Williams for some small compensation, perhaps for their keeping or board; and complainant afterwards allowed them, by his written permission, to go to the State of Ohio; and that said mulattoes did accordingly go to the State of Ohio, and remain there for a long space of time, to wit, for months; and that they were sent to Ohio by complainant's direction and instance, and with his approbation, to perform service and work as slaves.

And respondents are advised, and charge the fact to be, that in consequence thereof the said mulattoes acquired a right to freedom.

And respondents charge that they are now free, and were free at the time of filing complainant's bill, and long before, and that complainant has no right to maintain this action.

JACOB STRADER,
JAMES GORMAN.

STATE OF OHIO,
Hamilton county, ss:

This day Jacob Strader and James Gorman, came personally before me, a justice of the peace in and for said county, and made oath that the statements and charges of the foregoing answer, as they are advised, are true, so far as made of their own knowledge, and so far as made from information received from others they believe them to be true.

Witness their signatures and my attestation of the same, this 23d day of March, 1842.

JOHN A. WISCONSIN, [L. S.]
Justice of the peace.

Order filing Exhibit A. No. 2, by defendants.

And at a court held for the court aforesaid, on the 5th of April, 1842, came the defendants Strader and Gorman, by their counsel, and filed an exhibit herein, marked by clerk A. No. 2, which exhibit is in these words and figures, to wit:

Exhibit A. No. 2, filed by defendants.

HARRODSBURG, *August 30th*, 1837.

This is to give liberty to my boys Henry and Reuben, to go to Louisville, with Williams, and play with him till I may wish to call them home. Should Williams find it his interest to take them to Cincinnati, New Albany, or to any part of the south, even so far as New Orleans, he is at liberty to do so. I receive no compensation for their services, except that he is to board and clothe them.

My object is to have them well trained in music. They are young, one 17 and the other 19 years of age. They are both of good disposition and strictly honest, and such is my confidence in them that I have no fear that they will ever act knowing wrong, or put me to trouble.—

They are slaves for life, and I paid for them an unusual sum; they have been faithful hard-working servants, and I have no fear but that they will always be true to their duty, no matter in what situation they may be placed.

C. GRAHAM, *M. D.*

P. S. Should they not attend properly to their music, or disobey Williams, he is not only at liberty but requested to bring them directly home.

C. GRAHAM.

Order, leave granted complainant to retake depositions.

And at a court held for the court aforesaid, on the 24th of May, 1842, came the complainant, by his counsel, and on his motion leave is given him to retake all the depositions taken by him herein.

Order opening commission.

And at a court held for the court aforesaid, on the 27th of June, 1843, came the defendants, by their counsel, and on their motion it is ordered, that the commission for taking depositions herein be, and the same is hereby, opened thirty days for both parties.

Order setting for trial.

And at a court held for the court aforesaid, on the 28th of July, 1843, ordered that the foregoing one hundred and forty-four causes be set for trial here, on Tuesday, the 1st day of August next.

Order of submission.

And at a court held for the court aforesaid, on the 1st day of August, 1843, the foregoing one hundred and twenty causes came on to be heard, and was submitted; but the court not being sufficiently advised, took time, &c.

And at a court held for the court aforesaid, on the 7th of October, 1843, the court being advised, rendered the following opinion and decree, to wit:

Chancellor's opinion.

The bill complains that three slaves, Henry, Reuben, and George, musicians, the property of the plaintiff, were taken on board the steamboat Pike, unlawfully, and without permission of their master, and carried from Louisville to Cincinnati, and there landed, whence they escaped to the British dominion in Canada, so that the plaintiff, after expending great labor, time, and money, in the endeavor to regain possession, has not been able to do so, whereby the slaves are lost to the plaintiff, to his great damage.

The bill stated the defendants Jacob Strader and James Gorman to be the owners of the boat when the slaves were taken on board and transported; that they were out of the country, but that the boat was within the jurisdiction of the court; and thereupon prayed that the

owners be made defendants; that the boat be arrested and condemned to pay the damages to the plaintiff.

The boat was arrested in the port of Louisville, on the 26th November, 1841, and replevied by John Armstrong and Charles M. Strader, according to the permission of the court in the order for the arrest; upon the process of subpœna against the owners J. Strader and Gorman, they were returned not found, and residents of Cincinnati.

Other processes were sued out against them, until in March, 1842, they appeared and answered. The answer claims that they are sole owners of the boat, defends against the allegations of the bill, sets up matters of defence, and concludes thus: "These respondents insist that this court has no jurisdiction of this case; that the attachment was wrongful; that the proper parties are not before the court; that complainant's bill is not good in law; that said boat had a right to navigate the Ohio river, and that she hailed from and belonged to Cincinnati."

By our statute, approved January 7th, 1824, any master or commander of a steamboat or other vessel, who shall thereafter hire or employ, or take as passengers on board of such steamboat or other vessel, or suffer it to be done, or otherwise take out of the limits of this commonwealth, any slave or slaves without permission of the master of such slave or slaves, shall be liable to damages to the party aggrieved by such removal; and the steamboat or other vessel, on board of which such offence was committed, shall be liable, and may be proceeded against in chancery, and may be condemned and sold to pay such damages and costs of suit.

The amended act, approved 12th February, 1828, extends the remedies given by the former act, so as to embrace the owners, mate, clerk, pilot, and engineer, as well as the master, and they are declared to be liable to the action of the party aggrieved, "either jointly with the masters, or severally, and either at law or in chancery." The boat is expressly made liable to condemnation and sale, and the owners are made liable. When the plaintiff has so proceeded against the boat, and the owners also, I am not able to perceive any defect of parties.

The counsellors who have signed that answer, have not stated who else in their opinion should have been made parties. A demurrer for want of parties, or a plea of want of proper parties, must show who are the proper parties in such manner as to point out to the plaintiff the objection to his bill, and enable him to amend by adding the proper parties.

The court has permitted the plaintiff to amend when the demurrer has been held good upon argument. Mitf. pleading. Book II, chap. III, p. 53. Boyer vs. Covert, 1 Vernon, 95. Hanne vs. Stephens, 1 Vern. 110. Bregenden vs. Decreets, 2 cases in chancery, 197. Plunket vs. Penson, 2 Akins. 51.

The answer pleads, "that said boat had a right to navigate the Ohio river;" granted. But neither the owner nor their master, agents, or servants, acquired thereby any right to commit wrongs, trespasses, or injuries, upon the property of others. The maxim, "Sic utere tuo, ut alienum non ledas," emphatically implies.

The domain, empire, and jurisdiction of the State of Kentucky over the river Ohio, from the mouth of Big Sandy river to the river Mississippi, is founded in the established principles of international law. The State of Virginia owned and possessed the country on the northwest and southeast sides of the Ohio river. She ceded to the United States her right to the territory "situate, lying, and being to the northwest of the river Ohio." By reason of the domain, and empire, and jurisdiction which Virginia had originally over the country on both sides of the river Ohio, that domain, empire, and jurisdiction extended over the whole river, so far as it followed through the territory. (Grotius, book 2, chap. 2, sec. XI, page 151. Vattel, book 1, chap. XXII, No. 266, page 110. Hornly's lessee vs. Anthony, 5 Wheaton, 379.)

By the cession made by the State of Virginia to the United States of the territory lying to the northwest of the river Ohio, that original domain, empire, and jurisdiction, over the river which belonged to Virginia as proprietor of the country and territory on both sides of the river, was retained by the State of Virginia, (per Chief Justice Marshall and the whole court, in the case of Honly's lessee vs. Anthony, 5 Wheaton, 379.) By the compact of separation, and the boundary agreed between Virginia and Kentucky, the domain, empire, and jurisdiction over the river Ohio, from the mouth of Big Sandy river to the river Mississippi, was transferred to the State of Kentucky. The empire, or right of sovereign command, gives to the nation so possessing it the right to regulate everything which passes on the river, so far as necessary to its own security and that of its citizens.

The domain and empire gives to the nation possessing them an essential right in the thing itself; the right of navigation belonging to other States (and their citizens) bordering on the river, is but the right of use, subordinate to the domain and empire, and not to be exercised to the injury of the State and its people having the domain and empire.—The use for navigation and free passage must be innocent, and attended with no damage to the State and its citizens having the domain and empire. The care of its own safety, (and that of its citizens,) authorizes the nation having the domain and empire to establish regulations, and to use precautions necessary and proper to that end. (Vattel, B. I, chap. XIII, S. 292, page 120. Grotius, book II, chap. II, sec. XIII, and notes by Barbeyrac, p. 152.)

Again the answer says, that the said boat "hailed from and belonged to Cincinnati." Does that give privilege to commit wrongs and trespasses upon the property of the citizens of Kentucky? The river Ohio is not a sanctuary for wrongdoers, trespassers, felons, and murderers.

As to the plaintiff's complaint about the asportation of Henry and Reuben, it seems to me that the paper dated Harrodsburgh, 30th August, 1837, signed by the plaintiff, exhibited by the respondents (Exhibit A,) was a sufficient license and permission, without limitation as time or place, to any and every owner, master, or officer, of any steam-

boat, to take those two persons on board and to transport them to any place in or out of this State. It would be very inequitable to sustain the plaintiff's action as to Henry and Reuben, in defiance of that writing. As to the other person, George, I have found no evidence of any license, permission, or liberty given, for taking him on board and carrying him out of the limits and jurisdiction of the State.

George is described by the witnesses as a yellow colored man; Reuben and Henry were again and again carried by Williams to places beyond the jurisdiction of this State. But when the effort is made to show that Williams likewise had, and sometimes carried with him, a third musician, that one is described as a very black man, and so not George, the slave of the plaintiff; and Williams had no such permission as to George, as was contained in the exhibit (A) as to Henry and Reuben.

The asportation of George unlawfully on board the steamboat Pike, owned by respondents, Jacob Strader and Gorman, the landing of George in Cincinnati, and his escape to the British dominion in Upper Canada, are facts made to appear in evidence; for the damages thereby caused to the plaintiff, the boat, and owners are liable.

Decree.

Ordered that the deposition of J. Armstrong be suppressed, because is bound to plaintiff in the bond given to release the boat from arrest.

Ordered and decreed that the complaint of the plaintiff as to Henry and Reuben be dismissed.

And as to the complaint respecting the unlawful asportation of the slave George, the property of the plaintiff, it is ordered, that a jury be empannelled in this court, on the 10th day of November next, to ascertain such facts as shall be submitted to them, respecting the asportation of the slave George, and the damages to the plaintiff thereby.

Order to issue a venire facias.

And at a court held for the court aforesaid, on the 30th of January, 1844, ordered that a venire facias issue herein, directing the marshal to summon twelve good and lawful men to appear here on Friday, the 23d day of February next.

Which venire facias is in the words and figures, to wit:

Venire facias.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We command you to summon twelve good and lawful men, housekeepers, to appear before the Chancellor of our Louisville chancery court, at the court-room thereof in the city of Louisville, on Friday, the 23d day of February, 1844, at 12 o'clock of the day, then and there to be sworn as jurors, to inquire and ascertain such facts as shall then and there be submitted to them by our said chancellor, in the case of Chris-

topher Graham, complainant, against the owners of the steamboat Pike, defendants; and have you then and there this writ, with the names of said jurors.

Witness Charles J. Clarke, clerk of said court, this 23d day of February, 1841, and in the 50th year of the commonwealth.

CH. J. CLARKE.

Upon which the marshal made no return.

And at a court held for the court aforesaid, on the 23d of February, 1844, came the parties by their counsel, and by consent it is ordered, that the trial by jury ordered for this day be, and the same is hereby, postponed until Friday the 1st day of March next.

Order to issue a new venire facias.

And the clerk is directed to issue a new venire facias, returnable here then, &c.

Which venire facias is in these words and figures, to wit:

Venire facias to 1st March, 1844.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We command you to summon and empannel twelve good and lawful men, housekeepers, to appear before the chancellor of our Louisville chancery court, at the court-room thereof in the city of Louisville, on Friday the 1st day of March next, at 11 o'clock of the day, then and there to be sworn as jurors, to inquire and ascertain such facts as shall then and there be submitted to them by our said chancellor, in the case of Christopher Graham against the steamboat Pike and owners. And have you then and there this writ, with the names of said jurors.

Witness Charles J. Clarke, clerk of our said court, this 29th day of February, 1844, and in the 52d year of the commonwealth.

CH. J. CLARKE, *C.*

Upon which the marshal made the following return, "to wit:"

Marshal's return.

In obedience to the within process, I summoned Hugh Ferguson, Samuel Cassiday, Squire Lockery, T. K. Parent, Robert Stewart, Thomas Forsyth, Fountane North, J. P. Smith, Wm. F. Pettitt, Ch. Tilden, Wm. Minton, and Isaac Stewart, to make the jury required by said process.

T. M. TUNSTALL, *D. for*
WM. A. COCKE, *M. L. C. C.*

Order entering verdict, &c.

And at a court held for the court aforesaid, on the 1st of March, 1844, came the parties by their counsel, and the venire facias issued herein,

being returned executed, and thereupon the following jurors appeared, to wit: Samuel Cassiday, Samuel Forsythe, Isaac Stewart, Hugh Ferguson, William F. Pettit, Charles Tilden, Wm. Minton, Squire Lockry, John P. Smith, Fountaine North, Robert Stewart, and Thos. R. Parent, who being elected, tried, and sworn to inquire into and ascertain such facts as shall be submitted to them respecting the asportation of the slave George, and the damages to the plaintiff thereby, and a true verdict rendered according to the evidence; and thereupon the complainant submitted the following as facts to be inquired of by the jury, to wit:

Complainant's facts to jury.

1st. Whether the slave George, in the complainant's bill alluded to, was taken on board the steamboat Pike within the State of Kentucky, and carried on board said steamboat Pike, belonging to the defendants Strader and Gorman, out of the limits of Kentucky, in the year 1841?

2d. Whether the said George was carried without any exemplification of a record to prove him a freeman, and without the consent or permission of his owner, &c?

3d. Whether the negro George was a slave, and the property of the complainant when he was so taken and carried on board the steamboat Pike?

4th. What damages the complainant has sustained by the unlawful asportation of the slave George from this State to parts out of this commonwealth, by means and on board of the steamboat Pike, owned in 1841 by the said defendants Strader and Gorman?

And then the defendants submitted the following:

Defendant's facts to jury.

1st. Whether the complainant did or did not allow the slave George to go at large, excepting during the watering season?

2d. Whether George, in pursuance of such permission of the plaintiff, had or had not been to Indiana or Ohio, or to both States, to perform service as a musician, previously to the time of his escape?

3d. Whether he had not been to Indiana or Ohio, or both, previous to the time of his escape, and with the assent, express or implied, of the complainant?

After which the parties offered and read to the jury the pleadings, evidence, and exhibits filed in the cause, and the jury having heard the argument of counsel on both sides:

And then the complainant, by his counsel, moved the court to instruct the jury as follows, to wit:

Complainant's instructions to jury.

1st. The complainant moves the court to instruct the jury, that al-

though Graham may have permitted the slave to go at large in Kentucky, and play at the different towns, out of the watering season, this did [not] justify the taking him out of the State.

2d. That if the jury find the slave wrongfully taken by boat of the defendants out of the State, and he is irreclaimably lost, they may find the value of the slave and interest thereon in damages.

3d. The complainant moves the court to instruct the jury, that if the slave George was the property of complainant, and was wrongfully taken and carried away on board the defendants' steamboat, whereby he has been wholly lost to the said Graham, they may find the damages the complainant has sustained thereby to the amount of his value, taking into consideration the employment of a musician and dining-room servant, in which he was used by Graham; but the jury should not transcend the value as proved by the witnesses in estimating the value of the slave.

4th. The court is asked by complainant to qualify the 2d instruction given at the instance of the defendants, as follows: By the market value, the court means to say, the fair market value, educated as he was, and made fit for such business as he was thereby fitted for.

The first of which was given by the court as asked.

The 2d refused.

The 3d given with this qualification, "the court refuses to allow the skill of George as a musician to be taken into the estimate; with that qualification the residue of the above instruction is given."

The fourth instruction was given with these remarks, "the court responds that education and skill as a house servant, or such like useful employment of labor, may be taken into account, but that skill in music is fanciful, and not to be taken into account."

And then the defendants, by their counsel, moved the court to instruct the jury as follows, to wit:

Defendant's instructions.

1st. That if the slave be hopelessly lost, his value is the utmost that the complainant can be entitled to recover in any event.

This instruction was given by the court.

2d. That in estimating the damages, they must compare the chances or probability of his recapture with his value, and that this value must be taken to be his fair market value, and not any fancy price that complainant may have chosen to set upon him.

This instruction was given by the court.

3d. That the value of the slave George is not the criterion of damages, but that the complainant is only entitled to recover the actual damage occasioned by his transportation to Cincinnati on board the steamboat Pike.

This instruction is refused by the court.

4th. That if they believe from the evidence that complainant's loss *was* has not been the consequence altogether of the transportation of

George to Cincinnati on the steamboat Pike, they can only find such damages as are fairly attributable to the transportation of said slave to Cincinnati as aforesaid.

This instruction is refused by the court.

5th. That it is proper for the jury to take into consideration the facilities of escape offered to the slave by the complainant permitting him to go at large in diminution of damages.

This instruction is refused by the court.

6th. That if they believe from the evidence that complainant's loss is fairly attributable to his own conduct in permitting the slave to roam at large, they must find only nominal damages.

This instruction is refused by the court.

7th. That if they believe from the evidence that complainant has permitted the slave George to go to Indiana or Ohio to perform service as a musician, they cannot find damages against the defendants or their boat.

This instruction is refused by the court, there being no evidence conducing to prove such permission.

8th. The counsel for defendants respectfully asks the chancellor to give to the jury, before the argument of the case, any other instructions or charge which the chancellor may consider it his duty upon the evidence offered to give to the jury.

This instruction is refused by the court.

9th. That they may find the three propositions suggested in paper marked A.

This instruction is refused by the court.

10th. That from all the evidence in this case the question of the plaintiff's assent or permission to the carrying of George, is not a concluded question, but the jury may or may not find such consent or permission from all the evidence in cause.

This instruction is refused by the court.

11th. That the question whether George was or was not plaintiff's slave is an open question with this jury.

This instruction was given by the court.

12th. That the jury are not bound upon the evidence to assess the value of the slave as the damages if they find for the plaintiff, and they should only assess such damages as the plaintiff has sustained by reason of, and resulting from, the unlawful act of the officers of the boat.

This instruction is given with this explanation, that the escape of the slave to Canada is included.

And then the jury retired to consider of a verdict, and after a short time returned here into court the following verdict, endorsed upon the facts submitted by the complainant to be inquired of by the jury, to wit:

Verdict.

We, of the jury, find that the facts charged within, [are] all sustained

by the evidence, and find for the plaintiff one thousand dollars in damages.

JOHN P. SMITH, *Foreman*.

Order overruling complainant's motion for a new trial.

And at a court held for the court aforesaid, on the 5th of March, 1844, came the complainant, by his counsel, and moved the court to order a new inquiry herein.

1st. Because the court gave the instructions asked by the defendants, and refused and qualified the instructions asked by the complainant.

2d. The verdict is for a sum too small to be justified by the evidence.

And the court being advised, it is ordered, that the motion be overruled.

Order overruling defendants' motion for a new trial.

And at a court held for the court aforesaid, on the 5th day of March, 1844, came the defendants by their counsel, and moved the court to set aside the verdict of the jury, and ordered a new inquisition. Because the court erred in excluding from the jury legal evidence offered by defendants, and in permitting the plaintiff to read illegal evidence to the jury.

And because the verdict is contrary to law and evidence; and the damages are excessive; and because the court refused appropriate instructions asked by the defendants, and *give* improper instructions at the instance of the plaintiff.

And the court being advised, ordered that the motion be overruled; and the court made the following order, to wit:

At the request of the parties, the court certifies, that no other evidence than that appearing in the depositions filed was read or offered by either party on the trial before the jury.

Complainant's depositions.

Depositions read on the part of the complainant, Christopher Graham.

Harvey McFatridge's deposition.

The deposition of Harvey McFatridge, taken on the 14th of February, 1842, who deposes and says as follows, to wit:

1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long you have known them; what is their age and value of each? State their complexion, and all you know about them fully.

1. He states that he is well acquainted with the slaves in controversy in this suit, having known them five or six years. They are all three of yellow complexion, young, and very likely. Deponent states, that they are all first rate musicians, and good dining-room servants, though

he cannot say positively what they are each worth; common field hands were selling at that time for about $800.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

2d. This deponent states, that said slaves belonged to Dr. C. Graham, of Harrodsburg, and have belonged to him for the last three years and upwards.

Interrogatory 3d. What has become of said slaves?

3d. He answers, that he was present at an interview between Dr. Graham and Captain Armstrong, about the 4th or 10th days of March, 1841, in which conversation Captain Armstrong admitted the fact that he had taken Dr. Graham's slaves from Louisville to Cincinnati, on the steamboat Pike, but denied knowing that they were slaves, but supposed they were free men, as he did not demand any pass from them, either in coming on board or leaving the boat. Said slaves were taken from Louisville to Cincinnati about the 23d day of January, 1841, as appeared from the register of the boat.

Interrogatory 4th. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. This deponent states, that all he knows in relation to the manner of their escape, is from the admission of Captain Armstrong, as above stated. He accompanied complainant as far as Detroit, where he remained until complainant crossed over to Canada, where he understood they had fled.

Interrogatory 5th. Who owned the steamboat Pike in the year 1841?

5. He answers, he does not know who were the owners of said steamboat Pike, in the year 1841, but knows the fact that Captain Armstrong was the commander or master.

Interrogatory 6th. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. Deponent states, that he, in company with two others, accompanied complainant as far as Detroit, in pursuit of said slaves. That complainant passed over to Canada, as above stated, whilst himself and the other two remained in Detroit. He does not know the amount of money expended by complainant in pursuit of said slaves, but supposes it must have been between $6 and $700.

Interrogatory 7th. State any other facts you may know material to complainant.

7. He answers, that he knows the fact of complainant's having employed other agents to go in pursuit of said slaves, and particularly of the employment of a free man of color, named Shelton Morris, who lives in Louisville, who went to Canada for the purpose of inducing said slaves to return home, but without effect. They had written a letter to complainant, which this deponent saw, in which they informed complainant if he would send Shelton Morris to Canada, with money to bear their expenses home, they would return with him.

This deponent states, in explanation of his answer to the third interrogatory, that Captain Armstrong denied knowing said slaves belonged to complainant when they first came on board the boat, but afterwards found they were slaves, and belonged to complainant; but did not demand a pass from either of them, as he supposed they had liberty to travel where they pleased, being musicians.

This was also admitted by the clerk of the boat, so far as the taking said slaves from Louisville to Cincinnati; and further this deponent saith not.

H. McFATRIDGE.

James S. Graham's deposition.

The deposition of James S. Graham, taken on the 21st of February, 1842, who deposes and says as follows, to wit:

Interrogatory by complainant. State whether you know anything of the slaves in controversy in a certain suit now pending in the Louisville chancery court, in which Charles Graham is complainant, and steamboat Pike and owners are defendants.

Deponent answers, yes, I have known them for five years; they are of yellow complexion; they are fine musicians, scientific players on various instruments; their names are Reuben, a tall likely boy, 22 or 23 years of age. Henry, a yellow boy of ordinary heighth, quite fleshy and heavy built, aged about 21 or 22 years of age. George, a yellow boy very likely, neat, and trim built, aged about 21 or 22 years. George generally played on the violoncello, though he played very well on the small violin; they were very valuable, worth at least $1500 each.

To the second question by complainant. To whom do they belong?

Deponent answers, to Charles Graham, who has owned them for the last 5 or 6 years.

To 3d question by complainant. What has become of said slaves?

Deponent answers, that they have ran away and escaped to Canada.

To 4th question by complainant. How do you know that they have made their escape to Canada?

Deponent answers, I know the fact from the information of various persons who have seen them in Canada, and from the information from Robert Turner of Louisville, who stated that he saw them leave Louisville on board the steamboat Pike, bound up the river about the day of January, 1841.

To 5th question of complainant. Who owned the steamboat Pike during the year 1841?

Deponent answers, that Strader and Gorman of the city of Cincinnati, Ohio.

To question 6th by complainant. State whether said Graham ever made any effort to retake said slaves, and what exertion did he make?

Deponent answers, that he did; he engaged me, the deponent, to go to the State of Ohio in search of them; after which said Chris. Gra-

ham made a trip to Canada after them, taking three other persons with him. After which said Graham sent Shelton Morris, a free bar*bour* of Louisville, to Canada, said Graham having received a letter from the slaves, stating that they would return home with Shelton Morris.

To question by complainant. What amount of money was expended in those exertions to recapture?

Deponent answers, about one thousand dollars.

To question by complainant. State any other fact you may know material to complainant.

Deponent answers, that said slaves, when they escaped, carried away with them musical instruments and books to the value of $250 or $300.

To question by complainant. Was or was not said Graham deprived of the labor of said slaves for the greater part of several years, while they were apprentices learning music?

Deponent answers, he was.

To question by complainant. Did you ever hear any person make any offer to purchase said slaves; and if so, what price was offered?

Deponent answers, he has, and the price offered was $2000 for each.

To question by complainant. What would you estimate the expense incurred by Dr. Graham, the complainant, to procure such a band of music for his establishment during one summer?

Deponent answers, that it would cost about $500, and then he could not obtain such music; and moreover, they having been so long *been* trained and practised together, would make more and better music than 4 or 5 musicians would accidentally brought together.

To question by complainant. Were these slaves not valuable in other respects, irrespective of their musical talents?

Deponent answers, they were; they were very accomplished house servants, especially dining-room servants.

JAMES S. GRAHAM.

John B. Cogswell's deposition.

The deposition of John B. Cogswell, taken on the 21st of February, 1842, who deposes and says as follows, to wit:

To question by complainant. State whether you know anything of the three slaves in controversy in a chancery suit in Louisville, between Charles Graham, complainant, and steamboat Pike and owners, defendants; if you do, what was their value?

Deponent answers, that he has seen them frequently; that they were very likely, and that they were worth $1500; they were valuable musicians. That it is difficult to estimate the value of such servants, their talents as musicians being such as one but seldom met with.

And further this deponent saith not.

JOHN B. COGSWELL.

Deposition of Isaac C. Vanarsdale.

The deposition of Isaac C. Vanarsdale, taken on the 22d of February, 1842, who deposes and says as follows, to wit:

Interrogatory by complainant. State whether you do or do not know

anything of the slaves in controversy in the suit now pending in the Louisville chancery court, in which Chris. Graham is complainant, and steamboat Pike and owners are defendants.

Deponent answers, that he knows said slaves, and has known them for several years; their names were Reuben, Henry, and George; they were young and likely boys, good musicians, and fine dining-room servants.

To question by complainant. To whom do they belong, and who owned them for the last three years?

Deponent answers, that they belonged to Chris. Graham, of Harrodsburg, Kentucky, proprietor of the Harrodsburg springs.

To question by complainant. What has become of said slaves?

Deponent answers, that they ran away and escaped to Canada.

To question by complainant. How do you know that said slaves have escaped to Canada?

Deponent answers, that he accompanied said Graham to Canada in search of them, and that while passing upon the steamboat Pike from Louisville to Cincinnati, deponent learned from some of the hands on the boat Pike, that the three slaves went up on said boat from Louisville.

To question by complainant. What exertion was made by said Graham to retake said slaves?

Deponent answers, that he went to Canada, taking three men with him, deponent being one of the three men; that they were gone near about one month, travelling night and day.

To question by complainant. What wages did you receive from said Graham for said trip?

Deponent answers, that he received two dollars per day, and expenses borne. That said Graham and his company were 10 days in the city of Detroit, devising plans and stratagems for taking said slaves at very great expense; said Graham did not think it safe to cross over to Canada immediately on arriving *to* Detroit, a heated election being then in progress, and the negroes being privileged to vote; great excitement prevailed. That Col. Prince, the successful candidate for the provincial parliament of Canada, had engaged said boys Reuben, Henry, and George to play at the polls in Alinson, opposite to Detroit, during said election. At the close of this time, said Graham chartered the steamboat Gen'l McComb, Capt. Atwood, commander, and raised a company of about thirty persons, and went to Maulden, having engaged an agent in Canada to bring the said slaves on board the chartered boat when she landed at Maulden; but the plan was defeated by being betrayed, and that they did not get possession of the slaves, but returned home without them.

And further deponent saith not.

ISAAC C. VANARSDALE.

John G. Chiles' deposition.

The deposition of John G. Chiles, taken on the 22d of February, 1842, who deposes and says as follows, to wit:

To question by complainant. What would you estimate the three slaves in controversy in this suit, the musicians, to be?

Deponent answers, if he had been the proprietor of the springs, as Dr. Graham was, he would not have taken $1500 each, for them.

J. G. CHILES.

The deposition of Robert Turner, taken on the 4th of March, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

1st and 2d. He answers, he does know the slaves George and Henry, but don't know the slave Reuben by name, and has known them for two or three years past, and that they are the property of Dr. Christopher Graham. The said slaves George and Henry are light colored, between a black and mulatto color; he supposes them to be between twenty-five and thirty years of age, and that they were twelve months ago of the value of between twelve and fifteen hundred dollars; they were musicians, and considered very good ones.

Interrogatory 3d. What has become of said slaves?

Interrogatory 4th. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

3d and 4th. He answers, some time in the month of February, 1841, deponent happened at the wharf in this city, where the steamboat Pike was lying; that he saw on board said boat the two boys George and Henry, in company with two other negroes whom he did not know.—He recognised the boys George and Henry as being the slaves of complainant; that he remained at the wharf until said boat left with the said negroes on board; he supposed the boat was going to Cincinnati, Ohio, as she was in the habit of running regularly between that place and this as a mail boat.

Interrogatory 5th. Who owned the steamboat Pike during the year 1841?

5th. He answers, he don't know, but is generally understood that the steamboat Pike is the property of Gorman and Strader.

Interrogatory 6th. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and amount of money expended.

6th. He answers, he don't know personally, but he understood from complainant and from others, that he did go to Canada after said slaves, but was unable to take them. He saw complainant immediately after his return from Canada, but he has no idea of the amount expended by him in pursuit of said slaves.

Interrogatory 7th. State any other facts you may know material to complainant.

7th. He answers, he don't know that he knows anything else; and further says not

ROBERT TURNER.

Deposition of W. W. Collins.

The deposition of W. W. Collins, taken on the 25th day of May, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

Answer to question 1st. He knows nothing.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

To question 2d. Knows not.

Interrogatory 3d. What has become of said slaves?

To question 3d. Knows not.

Interrogatory 4th. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

To question 4th. States, that about 25th *and* 30th January, I saw on board steamboat Pike, on her voyage between Louisville and Cincinnati, three negro men that were musicians; and I heard that they belonged to a gentleman that kept a watering place or springs in the interior of Kentucky. They were mulattoes or yellow complexions; one tall and slender, and another thick, heavy, and stout; and the other rather small sized; all likely good looking negroes.

Interrogatory 5th. Who owned the steamboat Pike during the year 1841?

Question 5th. Knows not.

Interrogatory 6th. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and amount of money expended.

Question 6th. States that he saw complainant some two or three months after he had seen these negroes on board the Pike; and the said complainant was in company with two persons, and said that he was on his way to endeavor to regain possession of the negroes.

Interrogatory 7th. State any other facts you may know material to complainant.

Question 7th. Knows nothing more; and further the deponent saith not.

W. W. COLLINS.

Cross interrogatories by defendants.

1st. State if said slaves were not musicians.

Question 1st. They were.

2d. Did not Mr. Graham allow them to travel about where they pleased, except during the watering seasons at Harrodsburgh?

Question 2d. Knows not.

Cross interrogatory 3d. About what time did the said slaves escape?

Question 3d. The first time I ever saw the negroes was on board steamboat Pike, between 25th and 30th January, 1841.

Cross interrogatory 4th. Previously to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

Question 4th. Knows not.

Cross interrogatory 5th. Did he not allow them to stay with Williams, and to play for him, and to go with him to Madison and Ohio, to play?

Question 5th. Knows not.

Cross interrogatory 6th. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

Question 6th. Knows nothing.

Cross interrogatory 7th. Was not Williams in company with them, when you say you saw them on the Pike?

Question 7th. Knows not.

And further the deponent saith not.

W. W. COLLINS.

Jacob Hinkle's deposition.

The deposition of Jacob Hinkle, taken on the 4th of June, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1st. He answers, he don't know the slaves alluded to personally, but he has seen them more than once; his recollection is that he has travelled with them more than once; one of the boys, whose first name he don't recollect, on an occasion made himself known to deponent, and stated that he had once lived with deponent, several years ago; he stated that he then belonged to Mr. C. Graham.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

Interrogatory 3d. What has become of said slaves?

2d and 3d. He answers, he don't know personally to whom they belonged, nor what has become of them further than hereinafter stated.

Interrogatory 4th. If you say they have made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4th. He answers, some time in the month of January, 1841, he thinks it was between the 25th and 30th of that month, he left Louisville on board the steamboat Pike, then on her trip from this port to Cincinnati, where she was engaged in running; there were some five or six negroes

on board in company; some were of yellow and some dark complexion; they were musicians, and played on the boat as she was going up; amongst the rest was the boy who made himself known to deponent. Deponent left the boat at the mouth of the Kentucky river, and these negroes were still on board.

Interrogatory 5th. Who owned the steamboat Pike during the year 1841?

5th. He answers, he has understood that John Armstrong, who was commander of the boat, and Strader and Gorman, and some others, were the owners of said boat. Captain Armstrong told deponent who were the owners of said boat, but he don't recollect all of them. From Armstrong's own statement, he believes he is an owner at this time; but he cannot state who were the owners in 1841, as the conversation which deponent had with Armstrong has been subsequent to the time at which deponent saw said negroes on board said boat.

Interrogatory 6th. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and amount of money expended.

6th. He answers, he don't know personally.

Interrogatory 7th. State any other facts you may know material to complainant.

7th. He answers, he has no recollection at this time that he knows anything else material. He cannot state what the value of said slaves are. And further says not

JACOB HINKLE.

Deposition of James S. Graham, retaken.

The deposition of James S. Graham, taken on the 14th of July, 1842, who deposes and says as follows, to wit:

1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their age and value of each one? State the complexion, and all you know about them fully.

Deponent answers, yes, I have known them for four or five years; they are of yellow complexion, scientific players on several instruments; their names are Reuben, a tall handsome boy 22 or 23 years old; Henry, his brother, a yellow boy of ordinary heighth, fleshy and heavy built, aged about 21 or 22 years; George, a yellow boy, very likely, trim, and neat built, aged about 21 or 22 years, played on the violoncello, though he played very well on the small violin. They were very valuable, worth at least fifteen hundred dollars each.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

Deponent answers, Christopher Graham, who has owned them for the last five or six years.

Interrogatory 3d. What has become of said slaves?

Deponent answers, that they run away and made their escape to Canada.

Interrogatory 4th. If you say they made their escape, say when and how you know the fact; state all the facts in relation thereto fully.

Deponent answers, I know the fact from the information of Robert Turner, of Louisville, and from the information of various persons who have seen them in Canada. Robert Turner stated to me that he saw them leave Louisville in the month of January, 1841, on board the steamboat Pike, bound up the river.

Interrogatory 5th. Who owned the steamboat Pike during the year 1841?

Deponent answers, Messrs. Strader and Gorman, of the city of Cincinnati, and State of Ohio.

Interrogatory 6th. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and amount of money expended.

Deponent answers, he did; complainant engaged this deponent to go to the State of Ohio in search of them, which deponent did; after which complainant made a trip to Canada, taking three other persons with him, for the purpose of recapturing said slaves, but was unsuccessful. On his return, complainant sent Shelton Morris, a free *barbor*, late of Louisville, to Canada for them, the complainant having received a letter from said slaves, stating that they would return with said Shelton Morris. The amount of money expended by these trips and efforts was about $1,000.00.

Interrogatory 7th. State any other facts you may know material to complainant.

Deponent answers, that said slaves were taught the science of music at very considerable expense to complainant; that when they escaped they took with them instruments and music of the value of about $250 or $300; said slaves were very valuable to complainant, he being the proprietor of a watering establishment, and the procurement of such music per season would cost, if hired, about five hundred dollars; besides which they were very valuable as dining-room servants.

On cross interrogation.

Cross interrogatory 1st. State if said slave were not musicians.

Deponent answers, they were.

Cross interrogatory 2d. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

Deponent answers, he did not; at the time they made their escape they were placed in Lexington, Kentucky, and were not allowed to go farther than the little towns around, and then only for the purpose of practising their profession.

Cross interrogatory 3d. About what time did the slaves escape?

Deponent answers, it was in the latter part of the month of January, A. D. 1841.

Cross interrogatory 4th. Previously to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati to play as musicians?

Deponent answers, that he has no knowledge of such permission.

Cross interrogatory 5th. Did he not allow them to stay with Williams, and to play for him, and to go with him to Madison and Ohio, to play?

Deponent answers, the boys Reuben and Henry were with Williams as apprentices to the science of music, some four or five years since.—George never was placed under Williams, nor have the other two been under Williams for several years. Whether they were allowed to go to Madison and Ohio while under him, I know not.

Cross interrogatory 6th. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

Deponent answers, that he has opportunity of examining said letters.

Cross interrogatory 7th. Was not Williams in company with them, when you say you saw them on the Pike?

Deponent answers, that he does not say that he ever saw them on the Pike, or Williams either.

And further this deponent saith not.

JAMES S. GRAHAM.

Harvey McFatridge's deposition retaken.

Also the deposition of Harvey S. McFatridge, taken at the same time, to wit, the 14th of July, 1842, who deposes as follows, to wit:

Interrogatory 1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages, and value of each one? State their complexion, and all you know about them fully.

1st. He states, that he knows the slaves in controversy, and has known them for five or six years; that they are all three of yellow complexion, they are young and likely; that they are good dining-room servants, and very fine musicians; what they are worth deponent is unable to say; about the year 1837, deponent heard persons say, that if said slaves belonged to them, they would not take two thousand dollars a piece for them.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

He states, that said slaves belong to Dr. Christopher Graham, of Harrodsburg, Kentucky; that he has owned them for the last three years and upwards.

Interrogatory 3d. What has become of said slaves?

Deponent states, that said slaves some time in the month of January, 1841. That they left Louisville on the steamboat Pike. That he knows the fact from the admission of Captain Armstrong, who in a conversation held with complainant, (Armstrong not knowing, or not being personally acquainted with complainant,) stated that said slaves had

been taken up by him, on steamboat Pike, from Louisville to Cincinnati. Complainant asked Armstrong whether said slaves exhibited any pass or free papers? Armstrong answered, that he did not ask them for their papers, either when they got on board at Louisville, or when they got off at Cincinnati. Armstrong stated, that he did not know at the time they were slaves. Armstrong further stated, that on the way up the river, before the boat reached Cincinnati, he heard that the boys belonged to a Doctor Graham, the owner of some watering place in Kentucky.

Armstrong stated, "that he did not demand of said slaves their pass, because he supposed that, as they were musicians, they were allowed to go where they pleased." Deponent states, that this conversation was held between the complainant and said Captain Armstrong, on board the steamboat Pike, when *then* this deponent, in company with complainant and others, were going on a trip to Canada, to endeavor to recover said slaves, some time in the month of March, 1841. Deponent thinks it was the 15th day of March.

Interrogatory 5th. Who owned the steamboat Pike during the year 1841?

Deponent states, that he does not know who the owners of said boat were in 1841. He knows that Captain Armstrong was the master or commander of said boat in 1841. This complainant had previously known Captain Armstrong.

Interrogatory 6th. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and amount of money expended.

Deponent states, that complainant has made considerable effort to recover said slaves. This deponent with two other men accompanied complainant to Detroit in the State of Michigan, when complainant crossed over into Canada. We had previously *search* through many of the towns of Ohio. Complainant with his company, including this deponent, remained in Detroit between ten and twelve days, during which time the complainant was actively engaged in devising ways and *and* means for regaining the possession of said slaves at very considerable expense—chartering a steamboat, raising a company, and crossing into Canada. Deponent states, he does not know the amount of money expended, but supposes it must have been between six and seven hundred dollars.

Interrogatory 7th. State any other facts you may know material to complainant.

Deponent states, that he knows the fact of complainant having employed Shelton Morris, a free man, lately living in Louisville, who went to Canada for the purpose of inducing said slaves to return; they having written a letter (which this deponent saw) to complainant, in which they informed him that if complainant would send Shelton Morris to Canada, with money to bear their expenses home, they would return with him. This deponent, in addition to his answer to the 4th interrogatory of complainant, states, that the clerk of the said steamboat

Pike also admitted that the slaves in controversy were taken on board said boat from Louisville to Cincinnati.

Cross interrogatories by defendants.

Cross interrogatory 1st. State if said slave were not musicians.

Deponent states, that said slaves are musicians.

Cross interrogatory 2d. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

Deponent states, that complainant had stationed them in Lexington, for the two last winters, and allowed them only to visit the towns around Lexington, and to go to Frankfort to play for parties during the session of the legislature. These facts deponent knows, because complainant spoke to this deponent on the subject of attending to them, during the absence of complainant to New Orleans. Deponent was living at Frankfort during the winter season, and said slaves made their escape during the absence of complainant to New Orleans.

Cross interrogatory 3d. About what time did the said slaves escape?

Deponent states, that said slaves made their escape some time in the latter part of the month of January, 1841.

Cross interrogatory 4th. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati to play as musicians?

Deponent states, that Mr. Graham never allowed said slaves to go to Cincinnati, that he has any knowledge of.

Cross interrogatory 5th. Did he or not allow them to stay with Williams, and to play for him, and go with him to Madison and Ohio, to play?

Deponent states, that he has no knowledge of any arrangement on the subject between complainant and Williams whatever. Henry and Reuben were with Williams some 4 or 5 years since, but they have not been with Williams for several years.

Cross interrogatory 6th. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

Deponent states, that he has no opportunity of examining the letters referred to, and knows nothing of them.

Cross interrogatory 7th. Was not Williams in company with them, when you say you saw them on the Pike?

Deponent states, that he never saw said slaves on said steamboat Pike, nor Williams either.

And further this deponent saith not.

H. McFATRIDGE.

Deposition of John G. Chiles retaken.

The deposition of John G. Chiles, taken on the 20th of July, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State the complexion, and all you know about them fully.

1. Deponent answers, that he has known the slaves in controversy about three or four years; they were of yellow complexion; as to their age he cannot say precisely; that if he were placed in the condition of Dr. Graham, he would have valued them at fifteen hundred dollars each.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

2d. Deponent answers, that they were owned by Dr. Christopher Graham of Harrodsburg, Kentucky, who has owned them for the last three years and upwards.

[Interrogatory 3d.] What has become of said slaves?

3d. Deponent answers, that in the winter of 1841 he saw them in Frankfort, Kentucky, playing at the Weisigor house, and that since he has understood that they have escaped to Canada.

Interrogatory 4th. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4th. Deponent answers, that his knowledge of their escape is based on rumor.

Interrogatory 5th. Who owned the steamboat Pike during the year 1841?

5th. Deponent answers, that he does not know who owned the Pike in 1841, but he *have* understood that Strader & Co. owned her.

Interrogatory 6th. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and amount of money expended.

6th. Deponent answers, that he has understood that Dr. Graham went to Canada; he left home with the expressed design of going to Canada, and took others with him, and was gone some time; as to the amount of money expended, deponent cannot state.

Interrogatory 7th. State any other facts you may know material to complainant.

7th. Deponent states, that he does not know any other facts material to complainant.

Cross examination.

Cross interrogatory 1st. State if said slaves were not musicians.

1st. Deponent states, that said slaves were musicians.

Cross interrogatory 2d. Did not Mr. Graham allow them to travel about where they pleased, except during the watering seasons at Harrodsburgh?

2d. Deponent states, that he has seen them in Lexington and Frankfort, and perhaps in Louisville; as to Mr. Graham allowing them privileges, he knows nothing.

Cross interrogatory 3d. About what time did the said slaves escape?

3d. Deponent answers, that said slaves left in the winter of 1841.

Cross interrogatory 4th. Previously to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

4th. Deponent answers, that he has no knowledge of their being allowed to go to Cincinnati.

Cross interrogatory 5th. Did he not allow them to stay with Williams, and play for him, and go with him to Madison and Ohio, to play?

5th. Deponent answers, that he has known nothing of their going with Williams to Madison or elsewhere. Some years ago, they were under Williams as apprentices; but for the last two or three years he has no knowledge of their being with him.

Cross interrogatory 6th. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6th. Deponent answers, that he knows nothing of the letters, and has no opportunity of examining them.

Cross interrogatory 7th. Was not Williams in company with them, when you say you saw them on the Pike?

7th. Deponent answers, that he never saw them on the Pike.

And further this deponent saith not.

J. G. CHILES.

Deposition of George P. Richardson.

The deposition of George P. Richardson, taken on the 20th of August, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1st. Deponent answers, that he knows the slaves George, Henry, and Reuben; they are of yellow complexion, about 22 or 23 years of age; they were very likely, handsome servants; and he would say that, at the time they left Kentucky, they were worth $1500 each.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

2d. Deponent states, that they belonged to Dr. Graham of Harrodsburg, who has owned them for three years last past.

Interrogatory 3d. What has become of said slaves?

3d. Deponent states, that said slaves, as he has been informed, have fled to Canada.

Interrogatory 4th. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4th. Deponent states, that in the fall of 1840, and winter of 1840 [and] '41, they, the said slaves, were stationed in Lexington, Kentucky, and were allowed to visit Versailles and Frankfort, and other towns

around, in the immediate vicinity; in January, of the same winter, deponent saw them in Louisville, and shortly after understood that they had made their escape by way of Cincinnati.

Interrogatory 5th. Who owned the steamboat Pike during the year 1841?

5th. Deponent answers, that he does not know who owned the steamboat Pike.

Interrogatory 6th. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and amount of money expended.

6th. Deponent answers, that he understood from several gentlemen that efforts had been made to retake them in Canada.

Interrogatory 7th. State any other facts you may know material to complainant.

7th. Deponent answers, that in the winter above referred to he was engaged in teaching classes in dancing, in Louisville; that knowing the said boys to be fine musicians, he saw Reuben the leader with them, and invited them to come to his class-room to play for his pupils, which he promised to do, but they did not come; deponent then went to Williams and inquired where the boys were; Williams could not inform deponent, but said that the boys were shy of him; the boys were very evidently shy of this deponent, when he saw them at this time in Louisville, inasmuch perhaps as deponent had been requested to exercise some supervision over them while at Lexington and its neighborhood, as Dr. Graham was absent during that winter at New Orleans.

Cross examination by defendants.

Cross interrogatory 1st. State if said slaves were not musicians?

1st. Deponent answers, that said slaves were musicians.

Cross interrogatory 2d. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

2d. Deponent answers, they were not allowed to go to Louisville, or to any towns on the Ohio, but were permitted to go to the towns in the immediate vicinity of Lexington, as stated above to the 4th interrogatory of complainant.

Cross interrogatory 3d. About what time did the said slaves escape?

3d. Deponent says, that said slaves escaped in 1841, in the winter, as stated in answer to interrogatory 4th.

Cross interrogatory 4th. Previously to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati to play as musicians?

4th. Deponent answers, that his understanding was, that they were not allowed to go to Cincinnati.

Cross interrogatory 5th. Did he not allow them to stay with Williams, and play for him, and to go with him to Madison and Ohio, to play?

5th. Deponent answers, that since the year 1839 said slaves were taken from Williams; since which time, when absent from Harrodsburg, they were at Lexington as head-quarters, and the immediate vicinity; and were not under the control of Williams since the time referred to.

Cross interrogatory 6th. Examine the letters of Graham on file, marked A, B, and state if they are in his handwriting, or signed by him.

Deponent answers, that he has no opportunity to examine the letters referred to, and knows nothing of them.

Cross interrogatory 7th. Was not Williams in company with them, when you saw them on the Pike?

7th. Deponent answers, that he never saw them on the Pike; nor has he seen Williams in company with them, since about the year 1839, or the latter part of the year 1838; nor does deponent suppose that Williams had been, or was with them, as Williams stated to me, when I inquired for the boys, that they were shy of him, (Williams,) and that he did not know what had become of them.

And further saith not

GEO. P. RICHARDSON.

Deposition of Isaac C. Vanarsdale retaken.

The deposition of Isaac C. Vanarsdale, taken on the 23d of August, A. D. 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1st. Deponent answers, that he is acquainted with the slaves in controversy, and has known them for several years; their names are George, Henry, and Reuben; they are young and likely; that they are fine musicians, and good dining-room servants.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

2d. Deponent answers, that said slaves belonged to Dr. Christopher Graham, of Harrodsburg, Kentucky; that said Graham has owned them for more than three years past.

Interrogatory 3d. What has become of said slaves?

3d. Deponent answers, that they ran away and escaped to Canada.

Interrogatory 4th. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4th. Deponent answers, that he accompanied said Graham in the month of March, 1841, to Canada, in search of said slaves; and while passing upon the steamboat Pike, from Louisville to Cincinnati, deponent learned from some of the hands on board said boat, that the three slaves in controversy went upon said boat from Louisville to Cincinnati.

Interrogatory 5th. Who owned the steamboat Pike during the year 1841?

Deponent answers, that he does not know who owned the steamboat Pike during the year 1841.

Interrogatory 6th. State whether complainant ever made any efforts to regain possession of said slaves; if yea, state what efforts were made, and amount of money expended.

6th. Deponent answers, that complainant Graham made considerable efforts to retake said slaves by going to Canada, taking three men with him, this deponent being one; that they were gone near about one month, travelling night and day. Expenses must have been five or six hundred dollars for this trip.

Interrogatory 7th. State any other facts you may know material to complainant.

7th. Deponent answers, that he received from said Graham two dollars per day, and expenses *bourne*, for his services on the said trip to Canada. That said Graham and his company were ten days in the city of Detroit, devising plans and stratagems for taking said slaves at very great expense; said Graham did not think it safe or prudent to cross over to Canada immediately on arriving at Detroit, as a heated election was then in progress in Canada, and the negroes being privileged to vote, great excitement prevailed. That Col. Prince, the successful candidate for the provincial parliament of Canada, had engaged said slaves, Reuben, Henry, and George, to play at the polls of the election in Alinson, opposite to Detroit, during said election. At the close of this time, said Graham chartered the steamboat Gen'l McComb, Capt. Atwood, commander, and raised a company of about thirty persons, and went to Maulden, said Graham having engaged an agent in Canada to bring the said slaves on board the chartered boat when she landed at Maulden; but that plan failed, and they did not get possession of the said slaves, but returned home without them.

On cross examination.

Cross interrogatory 1st. State if said slaves were not musicians?

1st. Deponent answers, that said slaves were musicians.

Cross interrogatory 2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

2d. Deponent answers, that he does not know anything of the privileges allowed by said Graham to said slaves.

Cross interrogatory 3d. About what time did the said slaves escape?

Deponent answers, that said slaves made their escape in the month of January, 1841.

Cross interrogatory 4th. Previously to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

4th. Deponent answers, that he has no knowledge of their having gone to Cincinnati to play, or of any such liberty being granted by said Graham.

Cross interrogatory 5th. Did he not allow them to stay with Williams, and to play for him, and go with him to Madison and Ohio, to play?

5th. Deponent answers, that he has no knowledge of any arrangement whatever between Williams and said Graham.

Cross interrogatory 6th. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6th. Deponent answers, that he has no opportunity of examining the letters referred to, and knows nothing of them.

Cross interrogatory 7th. Was not Williams in company with them when you say you saw them on the Pike?

7th. Deponent answers, that he did not see said slaves or Williams on the Pike.

And further this deponent saith not.

ISAAC C. VANARSDALE.

Deposition of R. D. Harlan.

The deposition of Richard D. Harlan, taken on the 6th of September, 1842, who deposes and says as follows, to wit:

1st. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1st. Deponent answers, that he has known the slaves in controversy some four or five years; that they are young men, some 22 or 23 years of age; they are of yellow complexion, and their value deponent supposes to have been about $1500 each.

Interrogatory 2d. To whom do they belong, and state who owned them for the last three years.

2d. Deponent answers, that Dr. Graham of Harrodsburg, Kentucky, owned said slaves for upwards of three years past.

Interrogatory 3d. What has become of said slaves?

3d. Deponent answers, that he has understood that said slaves have run away to Canada.

Interrogatory 4th. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4th. Deponent answers, that said slaves left Kentucky some time in the month of January, 1841.

Interrogatory 5th. Who owned the steamboat Pike during the year 1841?

5th. Deponent answers, that he does not know who owned the steamboat Pike in 1841.

Interrogatory 6th. State whether complainant ever made any efforts to regain possession of said slaves; if yea, state what efforts were made, and amount of money expended.

6th. Deponent answers, that Dr. Graham went to Canada, and took others with him, in search of said slaves; does not know what amount of money was expended in the effort.

Interrogatory 7th. State any other facts you may know material to complainant.

Deponent answers, that he knows no other facts material to complainant.

Cross interrogatories by defendants.

Cross interrogatory 1st. State if said slaves were not musicians.

1. Deponent answers, that said slaves were musicians.

Cross interrogatory 2d. Did not Mr. Graham allow them to travel about where they pleased, except during the watering seasons at Harrodsburg?

2. Deponent answers, that he understood from Dr. Graham, previous to their escape, that he did not allow them to go to the towns on the Ohio river, fearing that they might be enticed away by abolitionists. Dr. Graham told deponent these facts some two years since, which was after their apprenticeship with Williams, in Louisville.

Cross interrogatory 3d. About what time did the said slaves escape?

3d. Deponent answers, that said slaves made their escape some time in January, 1841.

Cross interrogatory 4th. Previously to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati to play as musicians?

4th. Deponent answers, that he never knew of their going to Cincinnati to play, and that he was informed by said Graham that no such liberty was allowed.

Cross interrogatory 5th. Did he not allow them to stay with Williams, and to play for him, and to go with him to Madison and Ohio, to play?

5th. Deponent answers, that he does not know what said slaves did while they were with Williams, but since they and Williams had some difficulty; and said Graham took them from under the charge of Williams, he did not allow them any of the liberties above spoken of.

Cross interrogatory 6th. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6th. Deponent says, that he has no opportunity of examining the letters on file referred to.

Cross interrogatory 7th. Was not Williams in company with them, when you say you saw them on the Pike?

7th. Deponent answers, that he never saw said slaves on the steamboat Pike.

R. D. HARLAN.

The deposition of Robert Turner, retaken on the 18th of July, 1842, who deposes and says as follows, to wit:

In answer to complainant's interrogatories.

That on the 4th day of March last, (1842,) he gave his deposition in this cause at the instance of complainant, in which he made special answers to the several interrogatories propounded to him, which deposition he adopts, and to which he makes special reference. That he will now state, in addition to what he then stated, that he saw the negroes George and Henry, in company with others, leave Louisville on the steamboat Pike, as he before stated. Some two or three days after, J. J. Crittenden, A. Throckmorton, W. J. Graves, and others, left Louisville in company for Washington city, to attend the inauguration of President Harrison, on the 4th March, 1841. That Mr. Crittenden, and others, left some time in the month of February, allowing themselves sufficient time to arrive at Washington city, previous to the 4th March, 1841; and deponent well remembers, that it was within a very few days afterwards that he saw the said George and Henry, and others, leave Louisville on the Pike, as before stated.

ROBERT TURNER.

Defendant's depositions.

Depositions read on the part of the defendants, Strader and Gorman.

Deposition of John Armstrong.

The deposition of John Armstrong, taken on the 12th of February, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State under whose directions the steamboat Pike has been run for a long time, as master.

1st. He answers, he has been the master of the steamboat Pike since last October was twelve months ago.

Interrogatory 2d. Are or are not the defendants Strader and Gorman in the habit of running on said boat?

2d. He answers, no, they do not.

Interrogatory 3d. Where does said boat belong, and what is her regular trade?

3d. She belongs to the *post* of Cincinnati, and is a regular mail boat between Cincinnati and Louisville, running down one day and up the next.

Interrogatory 4th. Did or did not complainant Graham ever talk with Captain Armstrong respecting an alleged loss of his slaves, as set forth in his bill? If so, on how many different occasions; and when did Graham say they escaped?

4th. He answers, complainant Graham did talk with deponent, once that he remembers, and he thinks twice, on the subject of the escape of

his slaves; but he cannot recollect the exact time he said they escaped.

Interrogatory 5th. Who was present in a situation to hear said conversation?

5th. He answers, some gentleman was with Mr. Graham at the time, whose name he does not know.

Interrogatory 6th. Is it or is it not true, that in any conversation Captain Armstrong admitted to complainant that his (complainant's) slaves were carried away on the steamboat Pike.

6th. He answers, he never did make any such admission to Graham.

Interrogatory 7th. State what is the custom on the steamboat Pike about carrying negroes.

Interrogatory 8th. Are or are not the officers of said boat very strict and vigilant in preventing negroes from travelling on said boat?

7 and 8. He answers, that ever since deponent has been acting as the master of said boat, it has been a universal custom never to take a negro away from Louisville on board said boat, unless with his master, or unless some reference is made to some good and respectable citizen of Louisville. The officers of said boat are very vigilant as regards the taking of slaves from Louisville.

Interrogatory 9th. Did or did not complainant allow the slaves George, Reuben, and Henry to travel about as freemen.

Interrogatory 10th. Were or were not said slaves in the habit of playing at parties as a band of musicians, and receiving the pay therefor?

Interrogatory 11th. Did or did not complainant usually allow them to travel about when and where they pleased, except during the watering seasons at Harrodsburg?

9, 10, and 11. He answers, he don't know.

Interrogatory 12th. State what would have been the probable expense in 1841 for a man to travel from Harrodsburg, Kentucky, through Ohio, to the Canada shore, and thence to return?

12th. He answers, he don't know.

Interrogatory 13th. What would have been the reasonable cost of bringing three negro men from Canada to Harrodsburg, Kentucky?

(There is no answer to this interrogatory.)

Interrogatory 13*th*. Has or has not complainant recovered his slaves?

13th. He answers, he don't know.

Interrogatory 14th. Please to state any other fact which you may know material for defendants, Strader and Gorman, as fully as if specially interrogated thereto.

14th. He answers, he don't know that he knows any thing else material; and further says not

JOHN ARMSTRONG.

Deposition of Levi James.

The deposition of Levi James, taken on the 11th of April, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State under whose direction the steamboat Pike has been run for a long time past, as master.

Answer 1. Captain John Armstrong has commanded the boat for some time past as master; Captain John D. Edmons, commanded her in the first instance for some time.

I don't recollect any body else *commander* her, unless she might have been commanded occasionally a trip or so by the clerk.

Interrogatory 2d. Are or are not the defendants Strader and Gorman in the habit of running on said boat?

Answer 2. In reply to the 2d interrogatory by defendants, he says, never in any capacity that I know of, other than that of passengers.

3d Interrogatory. Whom does said boat belong [to,] and what is her regular trade?

Answer 3d. In reply to 3d interrogatory of the defendants, he says, that I have always understood that she belonged to Strader and Gorman; there may be other owners; if so, I do not know the fact. Her regular trade is between Cincinnati and Louisville, as a mail boat.

Interrogatory 4th. Did or did not complainant Graham ever talk with Captain Armstrong respecting an alleged loss of his slaves, as set forth in his bill? If so, on how many different occasions, and when did Graham say they escaped?

Answer 4th. In reply to the 4th interrogatory by the defendants, he says, I know nothing.

Interrogatory 5th. Who was present in a situation to hear said conversation?

Answer 5th. In reply to the 5th interrogatory by the defendants, he says, I know nothing.

Interrogatory 6th. Is it or is it not true, that in any conversation Captain Armstrong admitted to complainant that his, complainant's, slaves were carried away on the steamboat Pike?

Answer 6th. In reply to the 6th interrogatory by defendants, he says, I know nothing.

Interrogatory 7th. State what is the custom on the steamboat Pike about carrying negroes.

Answer 7th. In reply to the 7th interrogatory by defendants, he says, the custom so far as I know has been, when they did not know the negroes themselves, to require some person to vouch that they are free, before they would suffer them to take passage. I have been under the necessity several times, at Louisville, of going to see the officers to vouch for the colored persons who lived in Cincinnati, and had been employed on the Ambassador, in the lower trade, who wished to return home.

Interrogatory 8th. Are or are not the officers of said boat very strict and vigilant, in preventing negroes from travelling on said boat?

Answer 8th. In reply to the 8th interrogatory of the defendants, he says, I have travelled on the mail boat a great deal, and have always found the officers very particular about taking colored people on board.

I have frequently seen them sent away when they could not bring a voucher.

Interrogatory 9th. Did or did not complainant allow the slaves George, Reuben, and Henry, to travel about as free men?

Answer 9th. In reply to the 9th interrogatory of the defendants, he says, I know nothing.

Interrogatory 10th. Were or were not said slaves in the habit of playing at parties as a band of musicians, and receiving the pay therefor?

Answer 10th. In reply to the 10th interrogatory of the defendants, he says, I know nothing.

Interrogatory 11th. Did or did not complainant usually allow them to travel about when and where they pleased, except during the watering seasons at Harrodsburg?

Answer 11th. In reply to the 11th interrogatory of the defendants, he says, I know nothing.

Interrogatory 12th. State what would have been the probable expense in 1841, for a man to travel from Harrodsburg, Kentucky?

In reply to the 12th interrogatory by the defendants, he says, I know nothing.

Interrogatory 13th. Has or has not complainant recovered his slaves?

Answer 13th. In reply to the 13th interrogatory by the defendants, he says, I know nothing.

Interrogatory 14th. State any other facts which you may know material for defendants, Strader and Gorman, as fully as if specially interrogated thereto.

Answer 14th. In reply to the 14th interrogatory by the defendants, he says, I know nothing else on the subject, except what I have stated.

L. JAMES.

Deposition of Charles C. Bacon.

The deposition of Charles C. Bacon, taken on the 12th of April, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State under whose direction the steamboat Pike has been run for a long time past, as master.

Answer 1st. Under the direction of Captain John Armstrong.

Interrogatory 2d. Are or are not the defendants Strader and Gorman in the habit of running on said boat?

Answer 2d. Captain Strader has been a passenger once, (on a trip from Louisville to Cincinnati,) since I have been aboard of her. Mr. Gorman has been many times aboard of her while *while* she was in port at Cincinnati.

Interrogatory 3d. Where does said boat belong, and what is her regular trade?

Answer 3d. She belongs to Jacob Strader; her regular trade is between Louisville and Cincinnati, carrying the mail, and freight, and passengers.

Interrogatory 4th. Did or did not complainant Graham ever talk with Captain Armstrong respecting an alleged of his slaves, as set forth in his bill; if so, on how many different occasions, and when did Graham say they escaped?

Answer 4th. He never had any conversation with him, to my knowledge, on the subject. There is no reason to suppose that he would have had without my knowing it. I have been with Captain Armstrong on board the mail boat ever since the 20th June last, with the exception of about seven days; and I don't think Mr. Graham, whom I know very well, has ever been on board during that time.

Interrogatory 5th. Who was present in a situation to hear said conversation?

Answer 5th. I do not know.

Interrogatory 6th. Is it or is it not true, that, in any conversation, Captain Armstrong admitted to complainant that his (complainant's) slaves were carried away on the steamboat Pike?

Answer 6th. I never heard Captain Armstrong admit anything about it; I don't believe he ever did.

Interrogatory 7th. State what is the custom on the steamboat Pike about carrying negroes.

Answer 7th. We never carry them unless we know them to be free, or travelling in company with their masters, or some person of respectability. We do not take written evidence of their freedom, unless we know the signature. We pay no attention to the common free papers that blacks carry, knowing that so many of them are forged.

Interrogatory 8th. Are or are not the officers of said boat very strict and vigilant in preventing negroes from travelling on said boat?

Answer 8th. They are; I have been very much so; I have endeavored to guard the boat against any such thing; I am clerk of the boat.

Interrogatory 9th. Did or did not complainant allow the slaves George, Reuben, and Henry to travel about as free men?

Answer 9th. I know nothing about that.

Interrogatory 10th. Were or were not said slaves in the habit of playing at parties as a band of musicians, and receiving the pay therefor?

Answer 10th. I know nothing but from hearsay.

Interrogatory 11th. Did or did not complainant usually [allow] them to travel about when and where they pleased, except during the watering seasons at Harrodsburg?

Answer 11th. I have heard so; I have heard Mr. Chiles, a resident of Harrodsburg, (John G. Chiles, stage proprietor,) say that Dr. Graham suffered them to go where they pleased, except during the watering season, and that they were great fools to run away, being as free as he was to go where [they] pleased, except during the watering season. I have seen Dr. Graham's letters, authorizing them to go to Cincinnati and to New Orleans.

Interrogatory 12th. State what would have been the probable expense in 1841, for a man to travel from Harrodsburg, Kentucky.

Answer 12th. If the question means to Louisville, about $5. If to the Harrodsburg springs, about 12½ cents.

Interrogatory 13th. Has or has not complainant recovered his slaves?

Answers. I don't know whether he has or not.

Interrogatory 14th. State any other facts which you may know material for defendants, Strader and Gorman, as fully as if specially interrogated thereto.

Answer 14th. I don't recollect anything further.

CHARLES P. BACON.

Deposition of J. C. Buckels.

Also the deposition of J. C. Buckels, taken on the 19th of April, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State under whose directions *directions* the steamboat Pike has been run for a long time past, as master.

1. I answer, the steamboat Pike is now, and has been for some time, commanded by Captain John Armstrong.

Interrogatory 2. Are or are not the defendants, Strader and Gorman, in the habit of running on said boat?

2. Strader and Gorman do not run on the Pike; are owners of the boat.

Interrogatory 3d. Where does said boat belong, and what is her regular trade?

3. Said boat belongs to Strader and Gorman of Cincinnati, and her regular trade is between Louisville and Cincinnati.

Interrogatory 4th. Did or did not complainant Graham ever talk with Captain Armstrong respecting an alleged loss of his slaves, as set forth in his bill; if so, on how many different occasions; and when did Graham say they escaped?

4. I don't know.

Interrogatory 5th. Who was present in a situation to hear said conversation?

5. I don't know.

Interrogatory 6th. Is it or is it not true that, in any conversation, Captain Armstrong admitted to complainant that his (complainant's) slaves were carried away on the steamboat Pike?

6. I don't know.

Interrogatory 7th. State what is the custom on the steamboat Pike about carrying negroes.

7. The custom on said boat is, that no negro is permitted to go on said boat without a responsible person, known to the captain, who vouches for their being slaves or free persons of color, and the captain is so particular as not to receive passes as evidence; none but a known personal voucher is received.

Interrogatory 8th. Are or are not the officers of said boat very strict and vigilant in permitting negroes to travel on said boat?

8. They are very particular and vigilant; and the boats are regularly

searched after getting under way, and if negroes are found who have gotten on board without being known, they are either put in jail on the Kentucky side or brought back to Louisville.

Interrogatory 9th. Did or did not complainant allow the slaves George, Reuben, and Henry to travel about as free men.

9. The complainant informed me in a conversation with him, when on his way to Canada after his negroes, that he allowed them to travel about at large, and play, in order that they should not become rusty, or keep their hands in; that he had no idea they would leave him, he had great confidence in them; this was in answer to my remarks as I had *canseened* him for giving them such liberty, and that they were to give him what they could make after paying their expenses; they were to be at home during the watering season.

Interrogatory 10th. Were or were not said slaves in the habit of playing at parties as a band of musicians, and receiving the pay therefor?

10. I never saw them at parties as players, but I learned from Dr. Graham this was their habit.

Interrogatory 11th. Did or did not complainant usually allow them to travel about when and where they pleased, except during the watering seasons at Harrodsburg?

11. I answer, that the Dr. so informed me at the time before named, and which I have answered in 9th interrogatory.

Interrogatory 12th. State what would have been the probable expense in 1841 for a man to travel from Harrodsburg, Kentucky, through Ohio, to the Canada shore, and thence to return.

12. I answer, that I suppose the travelling expenses would cost from $150 or $200, or thereabouts.

[Interrogatory 13th.] What would have been the reasonable cost of bringing three negro men from Canada to Harrodsburg, Kentucky?

12. The expenses of bringing the slaves from Canada would be, I suppose, in and about $150 to $200.

Interrogatory 13th. Has or has not complainant recovered his slaves?

13th. I don't know if the complainant has recovered his slaves.

And further this deponent saith not.

J. C. BUCKLES.

Deposition of J. S. Everett.

The deposition of J. S. Everett, taken on the 15th June, 1842, who deposes and says as follows, to wit:

To interrogatories 1, 2, 3, 4, 5, 6, 7, and 8, copied on pages 67 and 68, he answers, he knows nothing personal on these several subjects.

Interrogatory 9th. Did or did not complainant allow the slaves George, Reuben, and Henry, to travel about as free men?

9. Answer, he don't know.

Interrogatory 10th. Were or were not said slaves in the habit of playing at parties as a band of musicians, and receiving the pay therefor?

Interrogatory 11th. Did or did not complainant usually allow them

to travel about when and where they pleased, except during the watering seasons at Harrodsburg?

10 and 11. He answers, they were in the habit of playing at parties in connexion with Williams, a free man of color, as a band of musicians; but he cannot state whether they received pay therefor. Williams is a musician, and follows it for a living, and resides in Louisville.

These slaves of complainant Graham remained with Williams probably as long as two years, and deponent has understood, and believes, that complainant put them with him to learn instrumental music.—Williams, although located in Louisville, as deponent has understood and believes, was in the habit of travelling about and playing as a musician.

Interrogatory 12th. State what would have been the probable expense in 1841, for a man to travel from Harrodsburg, Kentucky, through Ohio, to the Canada shore, and thence to return.

Interrogatory 12th. What would have been the reasonable cost of bringing three negro men from Canada to Harrodsburg, Kentucky?

12 and 12. He answers, he cannot state without some calculation.

Interrogatory 13th. Has or has not complainant recovered his slaves?

He answers, he don't know.

Interrogatory 14th. Please state any other facts which you may know material for defendants, Strader and Gorman, as fully as if specially interrogated thereto.

14. He answers, he don't know that he knows any thing else material; he has seen complainant Graham write, and has corresponded with him; he has a pretty distinct recollection of said Graham's signature; and on examination of the signature to the exhibit A, by defendants, under date of the 30th August, 1837, he is well satisfied it is in the proper handwriting of the said Graham. That complainant Graham is the proprietor of the Harrodsburg spring, and does not keep open his house except in the watering season, the summer, and fall.

That during the other season of the year he would have no use for musicians.

And further saith not

J. S. EVERETT.

Deposition of Alfred Downing.

The deposition of Alfred Downing, taken on the 24th of September, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State if you know Williams, a free man of color, a musician, of Louisville.

1st. He answers, he does.

Interrogatory 2d. Do you or do you not know three mulatto boys belonging to Dr. Graham of Harrodsburg, named Reuben, Henry, and George?

2d. He answers, that he don't know them.

Interrogatory 3d. Do you or do you not know of said boys ever having been in Indiana or Ohio? If yea, state when and where; who they were with, and what they were doing.

3d. He answers, he was clerk of the steamboat Pike for the two first seasons she was running, he thinks it was in the year 1839 and 1840; that whilst he thus acted the musician Williams was frequently in the habit of going up on board the Pike from Louisville to Cincinnati, and returning; he was also in the habit of carrying with him sometimes two other musicians, and sometimes three; one of those musicians was very black, and the other two were mulattoes; they composed Williams' band for some time. They paid no passage, but were in the habit of playing on said boat. The captain of said boat told deponent to let them pass on the boat whenever they pleased, that they had a proper pass. They played on the boat for their passage.

Interrogatory 4th. Do you not know of their ever having been in Madison, Indiana, or in New Albany, Ia., playing as a part of Williams' band? If yea, state the time as near as you may be able, and the occasion.

4th. He answers, he don't know.

Interrogatory 5th. State your residence and occupation.

5th. He answers, he resides in Jefferson county, and a farmer.

Interrogatory 6th. State if you know of Dr. Graham's ever having given the boys a general pass or permission to go with Williams to Cincinnati, Madison, or New Albany.

6th. He answers, he don't know.

Interrogatory 7th. State any other facts which you may know material for defendants.

7th. He answers, he don't know that he knows anything else material, except it be that negroes were never carried from Louisville on said boat with a common written pass. It was required that negroes wishing to go on said boat should bring some person on board who would be responsible for them. The officers of said boat were very particular about taking negroes on board said boat. It was deponent's habit of always going around deck immediately after leaving the wharf, and if he found any negroes on board who were not authorized to be on board, they were sent ashore immediately, or kept until the other mail boat was met, and sent them back, or until the Pike herself returned from Cincinnati the following day.

And further saith not

ALFRED DOWNING.

Deposition of George Fitzhugh.

The deposition of George Fitzhugh, taken on the 28th of September, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State if you know Williams, a free man of color, a musician, of Louisville.

Answer. I do.

Interrogatory 2d. Do you or do you not know three mulatto boys belonging to Dr. Graham of Harrodsburg, Kentucky, named Reuben, Henry, and George?

Answer. I do not by name. Williams was in Madison in February, 1839. Whitiver, our bar keeper, who is now absent in Lancaster Pa., went down to Louisville to engage musicians to play for a ball; he engaged Williams, who *brot* with him two mulatto boys, both grown nearly, if not quite; they played with Williams, who received pay for all their services.

Interrogatory 3d. Do you or do you not know of said boys ever being in Indiana or Ohio? If yea, state when and where, who they were with, and what they were doing.

Answer. So far as I can answer this question, it is answered in the questions above.

Interrogatory 4th. Do you or not know of said boys ever having been in Madison, Indiana, or in New Albany, Indiana, playing as a part of Williams' band? If yea, state the time as near as you can, and the occasion.

Answer. This question is answered by the preceding answers, so far as I can answer it.

Interrogatory 5th. State your residence and occupation.

Answer. I reside in Madison, Indiana, and assist in keeping the Madison Hotel, of which my son George D. Fitzhugh is the landlord.

Interrogatory 6th. State if you know of Dr. Graham's ever having given these boys a general pass, or permission, to go with Williams to Cincinnati, Madison, or New Albany.

Answer. I have no such knowledge.

Interrogatory 7th. State any other facts which you may know material for defendants.

Answer. I know nothing further.

G. FITZHUGH.

Deposition of M. D. Blaique.

The deposition of Madame M. D. Blaique, taken on the 16th of December, 1842, who deposes and says as follows, to wit:

Interrogatory 1st. State if you know Williams, a free man of color, a musician, of Louisville.

Answer. I do know Williams, a free man of color, a musician, of Louisville.

Interrogatory 2d. Do you or do you not know three mulatto boys belonging to Dr. Christopher Graham of Harrodsburg, named Reuben, Henry, and George?

Answer. I do know the three mulatto boys belonging to Dr. Christopher Graham, named Reuben, Henry, and George.

Interrogatory 3d. Do you or do you not know of said boys ever having been in Indiana or Ohio? If yea, state when and where, who they were with, and what they were doing.

Answer 3. I do know of the said boys having been in Ohio and Indiana; they were at Cincinnati, Ohio, with said Williams, and played with him for me at a ball given by me in May, 1837. They were also at Madison, Indiana, the same season, with the said Williams, and played with him for me at a ball given there by me; I had two schools, one in Cincinnati, and one in Madison, that season, for dancing.

Interrogatory 4th. Do you or not know of their ever having been in Madison, Indiana, or in New Albany, Indiana, playing as a part of Williams' band? If yea, state the time as near as you may be able, and the occasion.

Answer 4. I have already stated what I know of their being at Madison, Indiana, in my answer to the last question; I have no knowledge whether they were ever in New Albany, Indiana, or not. I do not know of their being at Madison any other time than the one I have named.

Interrogatory 5th. State your residence and occupation.

Answer. My residence is in Cincinnati, and my occupation keeping a dancing school.

Interrogatory 6th. State if you know of Dr. Graham's ever having given these boys a general pass or permission to go with Williams to Cincinnati, Madison, or New Albany.

Answer 6. I never saw the pass referred to in the question; the said boys told me that Dr. Graham had given them such a pass, and that it was by his permission that they travelled about; never heard Dr. Graham say anything about it.

Interrogatory 7th. State any other facts which you may know material for defendants.

Answer 7. I know nothing beyond what I have above stated in reply to the former interrogatories.

M. D. BLAIQUE.

Thomas Riddell's deposition.

The deposition of Thomas Riddle, taken on the 27th of June, 1843, who deposes and says as follows, to wit:

Interrogatory 1st. State if you know Williams, a free man of color, a musician, of Louisville.

1. He answers, he does know Williams, the person alluded to, well.

Interrogatory 2d. Do you or do you not know three mulatto boys belonging to Dr. Graham of Harrodsburg, named Reuben, Henry, and George?

2. He answers, he knows the two boys Reuben and Henry, but does not think that he knows George; he has seen Reuben and Henry frequently playing with Williams.

Interrogatory 3d. Do you or do you not know of said boys ever having been in Madison or Ohio? If yea, state when and where, who they were with, and what they were doing.

Interrogatory 4th. Do you or not know of their ever having been in

Madison, Indiana, or in New Albany, Indiana, playing as a part of Williams' band? If yea, state the time as near as you may be able, and the occasion.

3 and 4. He answers, he knows of the boys Reuben and Henry having been into the State of Indiana on two several occasions, and perhaps the third time, of which he cannot be positive. The first time they were at New Albany, Indiana, in company with Williams, where they had all gone to play for the amusement of, and at the request of some [of] the citizens. This was during the Christmas holydays of 1837; during the same holydays, said Reuben and Henry, with Williams, again came to New Albany, and played at a ball given by some of the citizens at the tavern, known as the High Street House, in said city of New Albany; before said Williams and Reuben and Henry were asked to go over to New Albany, which deponent did, he asked Reuben and Henry who they belonged to, and whether they had permission to go to Indiana; and they informed deponent that they belonged to Dr. Graham at the Harrodsburg springs, and that they had a permission in writing to go where they pleased.

Deponent has never known said boys Henry and Reuben to be in Madison, Indiana, but he has seen them in New Orleans in company with Williams; this was he thinks the winter after they were in Albany, but of the time he cannot be positive; it may have been the same winter, but he thinks it was the winter afterwards. They went down to New Orleans on the steamboat Express.

Interrogatory 5th. State your residence and occupation.

5. He answers, he lives in New Albany, Indiana, and has lived there for eleven years past; his employment has been on the river.

Interrogatory 6th. State if you know of Dr. Graham's having given these boys a general pass or permission to go with Williams to Cincinnati, Madison, or New Albany.

6. He answers, he is not acquainted with the handwriting of Dr. Graham; but at the time that Reuben and Henry told deponent that they had Dr. Graham's written permission to go where they pleased, Williams, in their presence showed deponent the writing; deponent read it, and he is confident that the paper now filed in this cause marked (A,) dated Harrodsburg, Aug. 30, 1837, is the same paper.

Interrogatory 7th. State any other facts which you may know material for defendants.

7. He answers, he don't know that he knows any thing else material, except it be, that at each time Williams, and the boys Reuben and Henry, were in New Albany as before stated, they stayed there all night, for deponent provided lodgings for them.

That from some time late in the year 1837, for some eighteen months or more, or afterwards, he thinks that some time in the year 1840 he saw the boys Reuben and Henry in company with Williams, playing at different places, principally on this side of the river, and occasionally on steamboats. And further says not

THOS. RIDDLE.

Robert C. Lyons' deposition.

The deposition of Robert C. Lyons, taken on the 10th of July, 1843, who deposes and says as follows, to wit:

Interrogatory 1st. State if you know Williams, a free man of color, a musician, of Louisville.

He answers, he does.

Interrogatory 2d. Do you or do you not know three mulatto boys belonging to Dr. Graham of Harrodsburg, named Reuben, Henry, and George?

Interrogatory 3d. Do you or do you not know of said boys ever having been in Madison, Ohio? If yea, state when and where, who they were with, and what they were doing.

Interrogatory 4th. Do you or not know of their ever having been in Madison, Indiana, or in New Albany, Indiana, playing as a part of Williams' band? If yea, state the time as near as you may be able, and the occasion.

2, 3, and 4. He answers, he has heard the deposition of Thomas Riddle, filed in this cause, read. That he knows that Williams and his band of musicians, consisting of some two or three colored men, were in New Albany, Indiana, on the two occasions alluded to in said Riddle's deposition, and at the times stated to wit, during the Christmas holydays of 1837; he does not know the boys Henry and Reuben personally, but remembers that one of the boys with Williams at New Albany was a yellow fleshy man, and one was called "Henry;" the name of the other he does not remember, but the description of the boy "Reuben" as made in the bill suits one that was with Williams at the time alluded to. That he came over from New Albany to Louisville with said Riddle, when he came to employ Williams and his band to play at New Albany, at the ball at the High Street House. That deponent was at said ball, and knows that Capt. Riddle was a manager of it.—Capt. Riddle came over to Louisville on two occasions to see Williams, the first time to see what Williams and his band could be employed for; he saw Williams and ascertained what he would charge, and reported to the managers on the subject, and afterwards came back to Louisville and employed them; after the ball was over, it was ascertained that tickets enough had not been sold to defray the expenses for the music and other things, those who attended made up the deficiency; deponent was one of those. Since then, he thinks in the year 1838, Williams was again in New Albany with his band playing; he thinks Williams had the boys with him on this occasion. Deponent did not know to whom the boys belonged; he has no personal knowledge of their ever having gone to Madison. He saw Williams in New Orleans in the winter of 1837 or 1838.

Interrogatory 5th. State your residence and occupation.

5. He answers, he lives in New Albany, and is a steamboat man.

Interrogatory 6th. State if you know of Dr. Graham's ever having

given these boys a general pass or permission to go with Williams to Cincinnati, Madison, or New Albany.

6. He answers, he knows nothing on this subject. From the fact of the boys being with Williams, and going to Indiana, and elsewhere, when they pleased, he took up the impression that they as well as Williams were free.

Interrogatory 7th. State any other facts which you may know material for defendants.

7. He answers, he has stated all that he knows material.

R. C. LYONS.

STATE OF KENTUCKY,
Louisville chancery court, sct:

I, Charles J. Clarke, clerk of the chancery court aforesaid, do certify, that the foregoing eighty pages, (this one included,) contain a full and complete transcript of the record and proceedings in the cause therein mentioned, as directed to be made out by an act of the legislature, prescribing the duties of clerks of inferior courts in making out complete records, and the instructions of the judges of the court of appeals under it.

In witness whereof I have hereunto subscribed my name, at my office in the city of Louisville, the 18th day of March, in the year of our Lord one thousand eight hundred and forty-four, and in the 52d year of the commonwealth.

CH. J. CLARKE, *C.*
By CH. J. MENG, *D. C.*

Strader's assignment of errors.

Strader, &c., assigned the following errors, to wit:

The plaintiff in error, J. Strader, says that manifest error to his prejudice occurred in the progress of this suit, in the Louisville chancery court, and the decrees rendered therein; and he assigns the following errors, for each of which he asks a reversal.

1st. The Chancellor erred in not dismissing the bill of Graham, and in giving Graham a decree in relation to one of the negroes referred to in the bill.

2d. The court erred on the trial before the jury in refusing instructions asked by Strader, and which ought to have been given; and in giving other instructions which ought to have been refused; and in excluding legitimate proof offered by Strader, and in admitting improper evidence offered by Graham.

3d. The Chancellor erred in each and every decision made to Strader's prejudice in this suit, and in overruling motion for new inquiry as to damages.

DUNCAN, *For Strader.*

Graham's assignment of errors.

Graham assigned the following errors, to wit:

1st. The Chancellor erred in his opinion and decree as regards the responsibility of defendants for the slaves Henry and Reuben.

2d. He erred in refusing to instruct the jury as moved by the counsel of plaintiff.

3d. He erred in his instructions to the jury as moved by counsel for defendants.

4th. The instructions, as given by the Chancellor, did not apply to the facts of the case.

5th. The decree is erroneous in substance or in form, in whole or in part.

6th. The Chancellor erred in his qualification to plaintiff's instructions.

Wherefore a reversal is prayed for.

HARLAN & CRADDOCK,
For Graham.

At a court of appeals held for the State aforesaid on the 2d day of September, 1844.

Order—Argument.

These causes came on and were heard, but the court not being sufficiently advised, took time.

And on the 14th day of October, 1844, the court being sufficiently advised, delivered the following opinion herein, to wit:

Opinion of court of appeals.

Graham filed his bill in the Louisville chancery court, attaching the steamboat Pike, and making the owners Strader and Gorman parties, under the acts of 1824 and 1828, to recover damages for the unauthorized transportation of his three slaves Reuben, Henry, and George, on board said steamboat from Louisville to Cincinnati, whence they escaped to Canada. The slaves are described as three yellow men, between nineteen and twenty-three years of age, well trained as dining-room servants, and as scientific musicians, in which capacity they had been in the habit for some years of playing together on various instruments, at balls and parties, and during the watering seasons were retained by the complainant at the house kept by him at the Harrodsburg springs, to play for the entertainment of his company.

The bill alleges, and several witnesses state, that each of them were worth $1500. The evidence conduces to prove, that they were taken on board the Pike at Louisville, about the last of January, 1841, when

they had with them besides their clothes, musical instruments and books of the value of about $250; that from Cincinnati, to which place they were transported in the boat, they escaped to Canada, and that the complainant had expended from $700 to $1000, in fruitless efforts to recover them.

The defendants in their original answer, besides denying the allegations of the bill, "charge that the said slaves are musicians, and have been (since a long time previous to their alleged escape,) allowed by the complainant to travel about as free negroes, and to play at parties public and private, and to receive their wages earned by them; and that they have frequently been allowed to go out of the commonwealth as if they were free." In an amended or additional answer subsequently filed, they charge that the complainant allowed the slaves to go to Louisville to live with Williams, a free man of color, to learn music, and afterwards gave them written permission to go to the State of Ohio; that they did go and remained there a long time, and were sent there by complainant's direction, to perform service as slaves, and that in consequence thereof they acquired a right to freedom, and are free, and were so when the bill was filed, and long before.

The defendants seem to have filed an exhibit, though it is not referred to as such in any of their pleadings; a paper which is proved to have been signed by Graham, the complainant, and is of the following tenor:

HARRODSBURG, *August 30th*, 1837.

This is to give liberty to my boys Henry and Reuben, to go to Louisville, with Williams, and to play with him till I may wish to call them home. Should Williams find it his interest to take them to Cincinnati, New Albany, or any part of the south, even so far as New Orleans, he is at liberty to do so. I receive no compensation for their services, except that he is to board and clothe them.

My object is to have them well trained in music. They are young, one 17 and the other 19 years of age. They are both of good disposition and strictly honest, and such is my confidence in them that I have no fear that they will ever [act] knowingly wrong, or put me to trouble. They are slaves for life, and I paid for them an unusual sum; they have been faithful hard-working servants, and I have no fear but that they will always be true to their duty, no matter in what situation they may be placed.

C. GRAHAM, *M. D.*

P. S. Should they not attend properly to their music, or disobey Williams, he is not only at liberty but requested to bring them directly home.

C. GRAHAM.

It appears that the boys Henry and Reuben were under the care of Williams; were with him once in Cincinnati, Ohio, once and perhaps

twice in Madison, Indiana, and two or three times in New Albany, Indiana, playing as musicians at balls or other entertainments at those places.

One witness states that George was with them in May, 1837, when they were at Cincinnati and Madison; but it is denied by the witness Graham, that George was ever placed with Williams by his master; and there is no proof, unless in the fact stated by the other witness referred to, that his master had ever permitted him to go out of the State, or that he had ever been out of the State prior to the time of his escape with the others. It was proved that none of them had been under the care of Williams, or living with him, for about two years prior to their escape; but that, except during the watering season, when they were required to be at home, they were stationed at Lexington as their headquarters, with liberty to go to the neighboring towns to play as musicians, and to give their master what they made beyond their expenses, and that they did thus go about the neighboring towns.

This privilege is variously stated by different witnesses, from the conversations of the complainant, one stating that Dr. Graham said he had allowed them to go where they pleased; others, that he had restricted them to towns immediately around Lexington, and had prohibited them from going to the towns on the Ohio river; and two witnesses, residents, one of Lexington, and the other of Frankfort, say they had been requested by the complainant, who went to New Orleans in the winter of 1840, '41, to have some supervision over these slaves.

It was stated by the witness, Graham, that it would cost $500 to supply their place as musicians, at the Harrodsburg springs, for a single season.

Upon the hearing, the Chancellor being of opinion that the writing of the 30th August, 1837, above set out, was sufficient license and permission, without limit as to time, to authorize any steamboat to take the slaves Reuben and Henry on board, and land them at any place in or out of the State, dismissed the complainant's bill, and claim of damages, for the exportation of those two slaves; and as to the slave George, directed a jury to be empannelled, as required by the 9th section of the act of 1839, (3 Stat. Law, 16,) to ascertain such facts as should be submitted them; on this inquiry, the pleadings, depositions, and exhibits were read to the jury, and numerous instructions having been asked for by the parties, and given or refused by the Chancellor, a verdict was found for the complainant, of $1000 in damages. The motion of each party for a new trial was overruled; and a decree having been rendered in conformity with the verdict, each party seeks its reversal in this court. Without detailing the various opinions to which the parties respectively objected, we shall proceed to notice the several questions involved in those objections, as relied on in this count.

1. And first it is urged, on the part of the complainant, that the Chancellor erred in dismissing the bill as to Henry and Reuben, on the ground of the writing above referred to.

The acts of 1824 and 1828, (Stat. Law 259, '60,) by their joint effect make the owners, master, &c., and the boat, liable for taking out of the limits of this State any slave who has not in his possession a record of some court of the United States, properly exemplified, proving his right to freedom, unless the owner or master, &c., of the boat, shall have the permission of the master of the slave for such removal; and not only is the offending party made liable in damages to the party aggrieved by such removal, but also to indictment, and fine, and imprisonment, at the discretion of a jury; and the boat itself is made liable to the party aggrieved to be proceeded against by suit in chancery, and condemned and sold to pay the damages.

Now, it seems to us, that unless these statutes, and the protection which they intended to give to the owners of slaves in Kentucky, are to be frittered away by construction, and rendered wholly delusive, the liability which they impose cannot, in the absence of record evidence of the freedom of the slave, removed from the State in a steamboat, be avoided or evaded, except by showing the express or implied permission of the owner of the slave that he may be so removed at the time.

Indeed, the words of the statute seem to require, that some person connected with the boat should actually have the permission when the act is done. And it is only under a liberal construction of the statute, not improper perhaps in a case of private claim for damages, that the liability can be absolutely avoided, even by subsequent proof of a general permission given to the slave himself, and not exhibited, nor proved to the officers of the boat, nor to be inferred from facts previously known to them.

They must have the permission of the master of the slave for any removal of the slave by their boat from Kentucky to another State, or they will be liable for the damages consequent thereon. It surely cannot be sufficient for the owners or others connected with a boat in which a slave has been thus removed, without any direct license from his master, but merely by his own desire, to show that the owner of the slave had repeatedly taken him with him between the same points, or that he has allowed a friend or trusty agent so to take him, or that he has authorized a person to whom he has hired or bailed him to take him with him at his descretion; even if all this had been done in the same boat, it would not authorize a subsequent transportation between the same points at the mere request of the slave, much less if his previous trips had been in another boat, and unknown to the persons who should thus receive him at his own request.

The passing of a slave from Kentucky to Ohio, no matter how often, and though with his owner's consent, can furnish no ground for inferring a license to pass at his own will and alone, if on every occasion he has gone in the charge of a free man, having authority from his master to control him.

Regarding these principles as correct in reference to the subject, we cannot concur in the opinion, that the writing of 30th of August, 1837,

signed by Graham, should be regarded as a sufficient authority to transport the boys Henry and Reuben, at their own will, from Louisville to Cincinnati, or elsewhere out of the State. It is not an authority to them to pass at their will and pleasure, but an authority to Williams to take them with him at his discretion. It was intended for Williams, as is evident from its general tenor, and especially from the postscript. It was to be the evidence of his interest in the two boys, of his right to control them, and of his right to take them with him out of the State without incurring liability. It does not appear ever to have been in their possession, but was properly kept by Williams, who produced it on one occasion as evidence of his right to take the boys to Indiana. It is a license to nobody else to take the slaves out of the State, and so far it may be said to be special; and it is limited in duration, not indeed by reference to years or months, but by reference to the circumstances to which it is made applicable. It ceased to be a license even to Williams, as soon as the boys were withdrawn from his custody, as they had been for one or two years before they were taken on board the Pike. And as he was not with them, and had no agency in their asportation, it could not have been regarded as an authority to the officers of the boat, even if it had been exhibited to them at the time. But it is not pretended that it had ever been seen or heard of by any one connected with the boat, until long afterwards.

It may be assigned that the defendants knew nothing of it until after they filed their first answer, and it was probably then procured from Williams. And as it does not appear that any persons connected with the Pike, when these boys were taken on board, had any knowledge of their ever having been on the river before, but the contrary is to be inferred from the depositions of several of them taken in the case, we do not perceive that either in the paper referred to, or in the connexion between Williams and the two boys Henry and Reuben, or in anything which occurred under it in pursuance of the authority conferred by Graham, the defendants or their agents, in the navigation of the boat, had any license or permission from him to take the two slaves from Louisville to Cincinnati.

It may be proper to say further, with regard to this paper of August, 1837, that although it bears evidence of the great confidence which Graham had in the two slaves therein named, yet as the expression of that confidence should be understood in reference to the disposition made of the slaves in placing them with Williams, and to the control and license given to him, it cannot be made the basis of inferring a larger license or control in Williams than is expressed, much less for inferring a license to the slaves themselves, or to another in regard to them, which is not expressed, nor apparently contemplated. The conjecture, that while that confidence continued he would, if asked, have permitted the slaves to go to Cincinnati without a master, could not have been regarded as a permission for them to go, if or when they chose; and the confidence expressed in August, 1837, may not have

been felt in January, 1841. Besides, this was no proclamation to the public of his confidence in the slaves, but an expression in a private paper of that confidence which justified its provisions.

And the expression of it might have been intended as a means of securing that obedience and fidelity which is assumed to exist; without carrying the argument further, we are of opinion that this writing, on its face, furnishes no authority for the asportation of Henry and Reuben, in the winter of 1841, and no ground for dismissing the bill as to them.

II. It is contended, however, that the bill was properly dismissed as to them; because, under the authority contained in the writing referred to, and therefore with the consent of the owner, the slaves Henry and Reuben were taken into the free States northwest of the Ohio, where, by the ordinance of Congress, for the government of the northwestern territory, embracing those States, slavery was prohibited, for the purpose of working, and did there work as slaves, for wages received by Williams or themselves, and that they thereby became free before the asportation complained of; and, consequently, that the complainant has no right to complain of that act, or to recover damages therefor.

It is, on the other hand, urged as a sufficient answer to this argument that the defendants cannot assert a right to freedom in Henry and Reuben, under the laws of Ohio and Indiana, which they did not themselves assert, and thus try the question of their freedom in this collateral way. But, if Henry and Reuben, after being taken by Williams to Ohio or Indiana, for the purpose of performing with him as musicians, for a reward to be paid to him or them, and after a sojourn there of a few hours spent in that employment and instruction or amusement, chose to return with him, and then had asserted before the tribunals of this State a right to freedom under the ordinance referred to, or under any other laws of Ohio or Indiana, we are far from admitting that they could have been pronounced to be free on any such ground.

With regard to any particular laws which may have been passed on this subject, by either of the States referred to, we have no personal knowledge, nor has it been asserted in argument that there are any such bearing upon the immediate subject; no question therefore arises as to the operation of such laws, or as to the power of enacting them.

We know that the ordinance referred to declares, "that there shall not be slavery nor involuntary servitude in the said territory, &c." and that the States which have been formed in that territory reject slavery as an institution. But while it may be admitted that, in consequence of this principle, no citizen or inhabitant of one of those States can hold another person as a slave in that State, it does not follow, and we do not admit, that the citizens of another State whose laws recognise and establish this species of property, loses instantaneously and forever, by the mere force of this general principle, all dominion and right of property in his slave whom he has taken with him in travelling through one of those States, or in a temporary and momentary sojourn for a particular purpose or pleasure; so that upon the voluntary and immediate

return of both into their own State, the pre-existing relation of master and slave must, in view of their own laws, be regarded as at an end.

In the case of Rankin vs. Lydia, (2 A. K. Marshall, 467,) it was decided by this court, that a master removing with his slave from this State to Indiana, then a territory, with the intention of residing there, and having become actually a resident there, and made a registry under the laws of the territory of Lydia, whom he had taken as a slave from Kentucky, lost thereby his dominion as a master and owner over her, and could not resume or re-create it by bringing or selling her back to Kentucky. But in the same case it is satisfactorily shown by the court, that the ordinance was intended to apply to the inhabitants of the north-western territory, and not to mere travellers or temporary sojourners; and although the principle declared in the ordinance has been since adopted into the constitutions of the United States, which have formed in the territory for whose government it was intended, we do not admit that, as a declaration, either of the ordinance or of the constitution of those States, it can by its own mere force produce the effect contended for.

If it were conceded, that in consequence of the establishment of this principle in any State, the laws of that State may not only refuse their aid to a master, voluntarily bringing his slave within its territory, even for a temporary purpose, to enforce his claim of dominion while there, but may aid the slave in resisting that claim, and thus enable him, if he will, to remain there as a free man, and this seems to be giving to the principle its fullest effect; still, it does not follow, that the master in thus subjecting himself to this temporary suspension of the legal right of enforcing his dominion, would incur anything more than the hazard of losing it forever. He certainly is not to be understood as renouncing it when he takes the slave with him as a slave, with the intention of bringing him back immediately as such. And if the slave, without resorting to such means of resistance as the laws of the foreign State may have offered, acknowleges his subjection while there, and returns with his master in a state of servitude, we perceive no principle which would afterwards entitle him to claim his freedom in the domestic form, on the ground that he might have asserted it in the State, and could not have been compelled to return. Both master and slave have gone from their own country, not with a view of becoming domicile in another, but for a merely transient purpose, and having in accordance with their intention returned without any visible change in their relations, their relative condition under their own laws will remain the same as if they had never gone.

What effect should be given here to the sentence of a foreign tribunal which, disregarding our laws on the subject, should, on the ground that slavery is inconsistent with its own laws, wrest the slave from his master while on a temporary visit in another State, and whether if the slave should afterwards return as a free man, he would, by our laws, be held subject to his former condition, need not be considered. Whatever, in such a case, might be the law of comity, or of humanity, or of indi-

vidual right, it seems to us that it would be placing our laws and policy in subordination to those of a foreign State, if we were to say that one of our citizens has lost his right of property in a slave, which is valid here by the mere force of a declaratory law of a foreign State, that there shall be no slavery within its territory; when he has entered that territory with his slave, not with a view of attaching himself to it, or of subjecting himself to its laws, or of renouncing the benefit and protection of his own, but for a merely temporary and legitimate purpose.

If our law on the subject might meet with so little respect in a foreign State, as not to be allowed to preserve this right of property in our citizens, when the foreign tribunal is appealed to, surely it would be carrying the principle of comity to a most unwarrantable length to deprive him of his property here, when he has brought it back without any appeal having been made to the foreign law while the subject was within its territorial jurisdiction. In favor of a concession which we can but regard as in some degree derogatory to our laws, as well as the rights of our citizens, we have been referred to no authority. But, on the contrary, we find that the principle which we have asserted, that a slave returning voluntarily with his master from a free State is still a slave by the laws of his own country, is sustained by the opinion of eminent jurists, even among those who have maintained that, by an appeal to the foreign law while within its jurisdiction, the slave may obtain the benefit of the constitutional principles which prohibits the existence of slavery. Judge Story, in his commentary upon the conflict of laws, after intimating in the 95th section, that in the free States of America, as in England, a slave coming within the territory, (except as a fugitive,) becomes free, goes on in the 96th section to say, that "it is a very different question, how far the original state of slavery might re-attach upon the party if he should return to the country by whose laws he was declared to be and was held as a slave;" and quotes the opinion of Lord Storrell, in the case of the slave Grace, (2 Hagg. adm., Rep. 94, 113, 114,) that upon such a return of the slave to his original domicile, the state of slavery would re-attach upon him. In a note to the same section is published at large the opinion of Chief Justice Shaw, in the case of the Commonwealth of Massachusetts vs. Aves, (1836,) in which case it was determined, that a slave taken temporarily to Massachusetts with the master was entitled to the ordinary remedies of the law for freeing him from restraint; and the learned judge, after stating the question now before us, as one not necessary to be decided in that case, intimates his own opinion very clearly, by saying, "from the principle above stated, on which a slave brought here becomes free, to wit, that he becomes entitled to the protection of our laws, and there is no law to warrant his arrest and removal, it would seem to follow, as a necessary conclusion, that if the slave waives the protection of these laws, and returns to the State where he is held as a slave, his condition is not changed."

Some stress seems to be laid on the fact, that Henry and Reuben performed services while in Ohio and Indiana, for which wages were

paid, and they went *went* there for that purpose with the consent of their owner. But if all this be conceded, we do not see how it can affect the question; Williams was at the time their master. They went with him under his authority, and performed the services under his engagement, and for him. And it is to be presumed that wages paid to him, or if to them only, by his directions and in such portions as he chose. But this we deem immaterial. They were still sojourners for a transient purpose, not inhabitants nor residents, and voluntarily returned with Williams. They were not even hired by him to inhabitants. If a master may take his slave into one of these States, he may surely receive and direct his services while they are voluntarily rendered, his charging and receiving pay for those services, when directed to the benefit or amusement of others, is itself an assertion of right and dominion over them, which cannot operate either as a renunciation or a forfeiture; and as he might in this State give or allow them a part of what was earned, without affecting his right of dominion over them, he might do it there. We cannot concede, therefore, that Henry and Reuben became free by reason of any of the facts referred to. And the same reasoning and conclusion will be applicable to the case of George, if as is contended he can, under the evidence, [be] brought within the same or similar conditions.

III. Being of opinion that the writing of August, 1837, furnishes no ground for discriminating between the complainant's claim for the asportation of Henry and Reuben, and for the asportation of George, we proceed to inquire how far his claim and right of suit upon these statutes, should be affected by his conduct after the two slaves were withdrawn from the control of Williams, in allowing them to remain for a considerable portion of each year in Lexington without a master, with liberty to hire out their services as musicians there, and in the neighboring towns, and thus at their own will to travel about the country, and, as one witness states, to go where they pleased.

First, then, it seems to us, that there being no instance in which the slaves, after the connection with Williams had ceased, had gone out of the State, or had even gone upon the river in a steamboat; and the terms of the license given to them while stationed at Lexington, not being such, upon fair construction, as to authorize them to go out of the State, and especially not allowing them to go to a free State, and moreover, there being no pretence that the persons connected with the steamboat Pike in the winter 1840, '41, had any knowledge of the license given, or the liberties taken under it, we think this license, and the practice under it, neither constituted nor proved a permission to take slaves from Louisville to Cincinnati, and therefore cannot protect the defendants from the liability fixed upon them by the statute, for the unlawful act of removing them without the permission of their master. And, secondly, although the conduct of the plaintiff in regard to these slaves was contrary to the laws and policy of the State, and furnished

an evil example which was calculated to withdraw other slaves from their duties, and to create in them a desire for similar indulgencies, yet these considerations do not, as we think, affect the question whether the law was not also violated in taking these slaves from Louisville to Cincinnati, without permission, nor justify the act if done; nor does the violation of one law by the complainant preclude him from claiming damages for the violation of another law by the defendants, so far as he has been injured thereby.

IV. Assuming, then, that these slaves were taken from Louisville to Cincinnati on the steamboat Pike, belonging to the defendants, without the permission of their master, the complainant has a right to maintain this suit for the recovery of the damages, and the only remaining question is, as to the criterion of damages, and the considerations which may properly enter into their assessment. If the slaves are hopelessly and irrecoverably lost, their fair value, or, if there be a chance of recovery, their fair value deducting that chance, constitutes the great item of damage or loss sustained by the complainant. But how, in the absence of the slaves, is this fair value to be estimated? If they were present, it might be ascertained by putting them to sale among persons acquainted with their qualities, their capacities, their habits, and their character, and their value would be the price which they would command among such persons. In their absence, their value cannot be ascertained by so precise a test, but in making the estimate the jury should undoubtedly take into consideration the same circumstances which might be rationally supposed to affect their value in the mind of purchasers, and they should give to each of these considerations, and also to the opinions of witnesses having the requisite knowledge, such weight as in their judgment it is entitled to have. They had a right, therefore, to take into consideration their qualities as musicians, which they were precluded from doing, with regard to George, by the instructions of the Chancellor.

For the same reasons, they had a right to consider the appearance and manners, the address of these slaves, their acquirements in literature as well as in music, their habits of subordination or of independence, the liberties which had been allowed to them, and the effect of all these circumstances, not only upon the value of their services, but also in generating a restlessness under restraint, and a desire of freedom, and in affording facilities and opportunities of escape, even if they had not been taken on board the Pike; and they had a right to determine how far any of these considerations should operate, to enhance or diminish the fair value of the slaves as such.

The Chancellor therefore erred, to the prejudice of the defendants, in withholding these considerations from the jury as proper elements for their estimate of the damages recoverable for the asportation of George. But the jury should regard the circumstances referred to as they existed before the slaves were taken on board of the Pike, and as they then affected their value as slaves.

With regard to the books and musical instruments which the slaves

had in their possession, they were probably the proceeds of their own earnings, which had been allowed to them, and may not have been intended to be claimed from them by their master; they may be considered, however, as a part of their acquirements as musicians, essential to them in that profession, and should in that view be included in the estimate of their personal value as musicians. Upon the subject of the expenses incurred in the unsuccessful attempts to recover the slaves, we have had some difficulty. But, as in case they had proved successful, the reasonable expenses of the recovery would certainly have constituted damages occasioned by the unlawful act of the defendants or their agents, and would have been recoverable as such, so we think that, although the effort has failed, yet if it was prudently made, that is, if the prospect of success authorized the attempt, of which the jury should judge, the complainant should be entitled to recover damages to the extent of the reasonable expenses incurred on that account. And although, after ascertaining where the slaves were, it should be deemed useless and imprudent to have incurred further expenses for their recovery, still he should be entitled to the expense reasonably incurred in ascertaining their condition, and the probabilities of recovering them.—Upon the subject of these expenses, which seems to have been excluded altogether by the instructions of the Chancellor, he erred to the prejudice of the complainant.

The deposition of Armstrong, the master of the boat, not having been objected to, should not have been rejected.

Decree of court of appeals.

Wherefore, the decree is reversed, and the cause is remanded for further proceedings, and inquiry as to all three of the slaves, on principles consistent with this opinion, and for decree thereon; and it will be proper to make Armstrong, the master of the boat at the time of the asportation, a party. Some errors, for which the decree is reversed, having been committed to the prejudice of each party, on the inquiry instituted with regard to George, the effect of which, in enhancing or diminishing the damages, cannot be ascertained, each party should pay their own costs on the writ of error prosecuted by the defendants, who have stated in their principal complaint that the bill was not dismissed to George. But on the writ of error prosecuted by the complainant, founded mainly upon the erroneous dismissal of the bill as to Henry and Reuben, he is entitled to his costs in this court.

SECOND RECORD.

And on the 4th day of February, 1844, came Strader, Gorman, and Armstrong, and filed the following additional record and appeal, to wit:

COMMONWEALTH OF KENTUCKY,
Louisville chancery court, sct:

Pleas before the honorable Samuel S. Nichols, Chancellor of the

Louisville chancery court, at the court-house in the city of Louisville, on the 4th day of November, 1845.

CHRISTOPHER GRAHAM, complainant,
against
JACOB STRADER, James Gorman, and John Armstrong, defendants. } In chancery.

Be it remembered, that heretofore, to wit, on the 8th day of Novr., 1844, came the complainant by his counsel, and filed an opinion of the court of appeals herein, the mandatory part of which is as follows, to wit:

Mandate—court of appeals.

It is therefore ordered and decreed, that the decree of the Louisville chancery court be reversed, and the cause remanded for further proceedings and inquiry as to all three of the slaves, on principles consistent with this opinion, and for decree thereon; and it will be proper to make Armstrong, the master of the boat at the time of the asportation, a party; which is ordered to be certified to said court.

A copy— teste: J. SWIGERT, *C. C. A.*

Amended bill filed.

At a court held for the chancery court, at the court-house thereof, in the city of Louisville, on the 15th day of November, 1844, came the complainant by his counsel, and by leave of the court filed an amended bill herein, making John Armstrong a defendant, and process is awarded, &c.

Which amended bill is as follows, to wit:

Amended bill.

The amended bill of Christopher Graham, plaintiff, against Jacob Strader and Gorman, owners of steamboat Pike, in case 3225, in the Louisville chancery court. The complainant, by way of amendment to his original bill, states that John Armstrong was the commander of the said steamboat Pike at the time of the asportation of the slaves George, Reuben, and Henry, mentioned in the original bill, to which this is an amendment; that by each asportation the said John Armstrong became liable for the value of said slaves, and for damages.

The complainant therefore prays, that the said John Armstrong be made a defendant to this suit, and that he be required to answer the allegations of the original bill and this amended bill; and that process be awarded against him, &c. Complainant as in his original bill prays for general relief.

PIRTLE & WOLFE.

The process which issued upon the foregoing amended bill is as follows, to wit:

Subpœna in chancery on amended bill.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We command you to summon John Armstrong to appear before the chancellor, in the city of Louisville, on the 4th Monday of November, present, to answer an amended bill in chancery exhibited against him by Christopher Graham; and this he is cautioned not to omit under the penalty and warning hereby given, that unless he shall appear and answer the said bill within 20 days from the day of the service hereof, the complainant may proceed against such defaulter, to file interrogatories and take proof of the matters of the said bill, or may have an attachment to compel an answer, or at his election may take the said bill for confessed, and the cause will be tried without further warning; all of which you will give notice to the defendant to take heed, and that you have then and there this writ, with your due return endorsed.

Teste: Charles J. Clarke, clerk of our said court, this 16th day of November, 1844, and in the 53d year of the commonwealth.

CH. J. CLARK.

Upon which the marshal made the following return, "to wit:"

Marshal's return.

Executed on John Armstrong 19th November, 1844, by delivering to him a copy of the within process.

JOHN A. CRITTENDEN, *M. L. C. C.*

Answer of Armstrong filed.

At a court held for the court aforesaid, on the 20th day of December, 1844, came the defendant John Armstrong by his counsel, and filed his answer to the original and amended bills.

The answer filed by the foregoing order is as follows:

Answer of Armstrong to original and amended bill.

The answer of John Armstrong to the bill and amended bill of Christopher Graham. Respondents saving, &c., for answer to so much of said bill and amended bill as he is advised it is material for him to answer, says, that he was commander of the steamboat Pike at the time when complainant's negroes are charged to have been asported.

He does not know, and therefore denies, that said boys were each of the value of $1500, and calls for proof. Respondent does not know, and therefore he denies, that complainant lost said slaves as charged in said

bill, nor does he know that complainant was at great trouble and expense in endeavoring to recover slaves, or that he did not expend less than $. And he therefore denies those allegations, and calls for proof. Respondent has no recollection of the times when said boys have been up the river, but he knows that they have been up frequently, but he believes that it has always been with the approbation of complainant.

He says that they were in the habit of travelling about the country with as little apparent restraint as if they had been free, and complainant had made for them a general pass or license, to go to Ohio, Indiana, or south, and expressed in it his unbounded confidence in them; and respondent has frequently seen said license or pass, and always regarded them as being allowed by complainant to go where they pleased; they have once or twice been up the river to Cincinnati, on the Pike, but whether at the time charged, or at the time when they are said to have escaped; respondent does not know, and he therefore calls for proof.

He does not know or believe, and he therefore denies, that they were lost in consequence of being carried to Cincinnati on said boat; and he says, that if they did go on said boat as charged, it was with the license, express or implied, of complainant, and on account of his own habit of permitting them to travel about as musicians; for no slave was ever allowed by respondent to travel in any boat commanded by him, unless he personally believed that he was travelling by and with his master's permission. Respondent denies that he is liable to complainant for the value of said slaves, and damages; respondent has heard that one or more of said slaves has returned to complainant, or that he has recovered one or more of them, and he charges the fact to be so, and calls upon complainant to answer it; and he also calls upon him to state, whether the said slaves or some of them have not offered to return to complainant. Respondent is informed and charges, that complainant, before the time of their alleged escape, allowed said slaves to come to Louisville to live with Williams, a free man of color, to learn music, and that he hired them to Williams for some small compensation, perhaps for mere board; and afterwards, before the time of their alleged asportation on the Pike, allowed them to go to Ohio, and they accordingly did go to Ohio, and remained there for some time, and that they went to Ohio with complainant's permission, direction, and instance, and with his approbation, to perform services and work as slaves, before the time of their alleged asportation; and he is advised, and therefore charges the fact to be, that [in] consequence thereof, or thereby, the said mulattoes, and each of them, acquired a right to freedom, and were free at the time of filing complainant's bill, and before and at the time of their alleged asportation, and before; and that complainant has no right to maintain this action; and having answered, he prays hence to be dismissed with his costs in this behalf most wrongfully sustained, &c.

This day John Armstrong made oath, that the statements of the foregoing answer are true so far as made of his own knowledge, and so far

as made from information ascertained from others, he believes them to be true.

Witness his signature and my attestation of the same, this 19th December, 1844.

JOHN ARMSTRONG,
Attest: J. HARRISON, *J. P. J. C.*

Order filing answer of Graham to cross bill of Armstrong.

At a court held for the court aforesaid on the 10th of January, 1845, came the complainant Christopher Graham, and filed his cross bill to the answer of John Armstrong herein.

The answer of Graham, filed by the foregoing order, is as follows, to wit:

Answer of Graham to Armstrong's cross bill.

The answer of Christopher Graham to the cross bill of John Armstrong, in the case of Graham against steamboat Pike, &c., in the Louisville chancery court.

Respondent for answer to said cross bill denies the slaves mentioned in said cross bill ever went up the river with the approbation, consent, or knowledge of respondent. It is true that respondent placed Reuben and Henry under the care of Williams, in the year of And that respondent gave said Williams a written permission, filed in this cause, to take said slaves to the points mentioned therein, but respondent has no personal knowledge that said slaves ever went out of the State of Kentucky.

Respondent denies that, at the time of the asportation of said slaves, they had any permission to go with Williams, or any one else, up the river or elsewhere; respondent states that at the time of the asportation of the slaves they were not under the control of said Williams, but they had been taken from his possession nearly two years; and as for George, respondent states that he never gave Williams permission to take him out of the State at all, or elsewhere; respondent denies that said slaves were carried on the Pike with the license from respondent, either expressed or implied, at the time of asportation; respondent denies that said Armstrong saw the license to said Williams before or at the time of the asportation; and he denies that said Armstrong had any reason to believe that either of the slaves was authorized to leave the State of Kentucky. Respondent denies that either of said slaves returned to the State of Kentucky, or ever offered to return in good faith; respondent denies that said Reuben and Henry, if they ever were taken out of the State by Williams, under the permission of respondent, remained out of the State any length of time; they may have been absent a day or so, but not longer; and if so, they were under the control of said Williams. Respondent denies that said slaves ever acquired a right to freedom, or that they were free at the time of filing respondent's

bill, or that they were free at or before the time of asportation; and having answered, &c.

CHRISTOPHER GRAHAM.

January 5, 1845.

This day Christopher Graham personally appeared before the undersigned, an acting justice of the peace in and for the county of Mercer, and made oath *to* the foregoing answer to the above cross bill is true, so far as he has knowledge and belief.

Given under my hand and seal this 7th day of January, 1845.

STEPHEN STONE, *J. P. M. C.*

Exceptions filed to deposition of Armstrong, and set for trial on 19th instant, and venire ordered.

At a court held for the court as aforesaid on the 14th day of February, 1845, came the complainant by his counsel, and filed exceptions to the deposition of John Armstrong taken herein, and on his motion it is ordered, that this cause be set for trial here, on Wednesday, the 19th instant, and the clerk is directed to issue a venire facias returnable here then at 10 o'clock, A. M.

Which exceptions are as follows, to wit:

Complainant's exceptions to deposition of Armstrong.

The complainant excepts to the deposition of Armstrong taken herein, because the said Armstrong was interested, and is interested, in the event of this suit; because the same is irregularly taken.

WOLFE, PIRTLE & SPEED.

Set for 24th instant and jury ordered.

At a court held for the court aforesaid on the 18th day of February, 1845, ordered that this cause be set for trial here on Monday next, the 24th instant, and that a writ of venire facias issue herein, returnable here then, &c.

Order filing amended answer of Graham.

At a court held for the court as aforesaid on the 25th day of February, 1845, came the complainant by his counsel, and by leave of the court filed an amended answer to the cross bill of John Armstrong herein; whereupon it is ordered that this cause be remanded to the rules.

Which amended answer is as follows, to wit:

Amended answer of Graham.

The amended answer of Christopher Graham to a cross bill exhibited against him in the Louisville chancery court, by John Armstrong, in the case of Graham against steamboat Pike, &c. This respondent

says that it is not true that he has recovered either of the slaves mentioned in the bill, in any form whatever, or anything for them or either of them in any manner, but he says that they are wholly lost to him, and he has no expectation of recovering either of them, or anything for them or either of them, except in the form he is now pursuing the matter in this honorable court.

He thought that every allegation of the cross bill had been responded to by his answer filed herein on the 10th of January, 1845. He lives at Harrodsburg, seventy-five miles from this court, and his counsel lives in Louisville, and he had not the opportunity of personal interview with his counsel or personal examination of the bill.

HARRODSBURG, *February 21st*, 1845.

CHRISTOPHER GRAHAM.

MERCER COUNTY, *sct:*

This day Christopher Graham came before me, J. N. Thompson, a justice of the peace in and for said county, and made oath to the truth of the foregoing answer.

Given under my hand this 21st day of February, 1845.

J. N. THOMPSON, *J. P. M. C.*

Jury ordered to 24th instant, and leave till then to take proof.

At a court held for the court as aforesaid on the 18th day of April, 1845, came the complainant by his counsel, and on his motion it is ordered, that a writ of venire facias issue herein, returnable here on Tuesday next, the 24th instant, and leave is given the parties hereto till then to take proof.

The venire facias which issued upon the foregoing order is as follows, to wit:

Venire facias.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We command you to summon and empannel twelve good and lawful men, housekeepers, to appear before the Chancellor of our Louisville chancery court, at the court-room thereof in the city of Louisville, on Thursday the 24th instant, at 9 o'clock, A. M., of the said day, then and there to be sworn as jurors, to inquire and ascertain such facts as shall then and there be submitted to them by our said chancellor, in the case of Christopher Graham, complainant, against the owners of the steamboat Pike, defendants. And have then and there this writ, with the names of said jurors.

Witness Charles J. Clarke, clerk of our said court, this 26th day of April, 1845, and in the 53d year of the commonwealth.

CH. J. CLARKE, *C.*

Upon which the marshal made the following return, to wit:

Marshal's return.

In obedience to the within process I summoned L. Hyeatt, Wm. McCrum, Tom Snead, A. Bayliss, James Bridgeford, Thos. McAfee, Wm. Davis, James Marshall, Dan'l McCallester, T. Rucker, Jacob Kellar, and John Rust, to make the jury required by this process, and they discharged as per order of this day, 24th April, 1845.

J. A. CRITTENDEN, *M. L. C. C.*

Jury discharged, exceptions filed by defendants, and leave to both parties to retake depositions.

At a court held for the court as aforesaid on the 24th day of April, 1845, came the parties, &c., and the venire facias issued herein being returned by the marshal executed, and the juriors appeared; and thereupon the defendants filed exceptions to the depositions of Vanarsdale and McFatridge, taken on the part of the complainant, which exceptions were sustained by the court, and thereupon the complainant moved the court to discharge the jury, set aside the order for a venire facias, and remand the cause to the rules. Whereupon it is ordered that the jury be discharged, and the cause remanded to the rules, and leave is given either party to retake all depositions by them heretofore taken.

The exceptions filed by the foregoing order are as follows, to wit:

Defendants' exceptions to depositions.

The defendants except to the deposition of J. C. Vanarsdale, taken 26th December, 1844, and H. McFatridge, taken 2d January, 1845, for each of the following reasons:

1st. The commission issued without a copy of the defendants' cross interrogatories being annexed, as required by the rules and practice of this court.

2nd. The cross interrogatories of defendants were not propounded to the witness.

3d. The depositions were taken without leave of the court previously granted.

DUNCAN & RIPLEY, *P. Q.*

Jury ordered to 30th instant.

At a court held for the court as aforesaid on the 20th day of June, 1845, came the complainant by his counsel, and on his motion and by consent of the defendant, it is ordered that this cause be set for trial here on Monday the 30th instant, with leave till then to take proof herein, and a venire facias is awarded, returnable here then &c.

The venire facias which issued upon the foregoing order is as follows, to wit:

Venire facias.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We command you to summon and empannel twelve good and lawful men, housekeepers, to appear before the Chancellor of the Louisville chancery court, the 30th instant, at 9 o'clock, A. M., of said day, then and there to be sworn as jurors, to inquire and ascertain such facts as shall then and there be submitted to them as such by our said Chancellor, in the case of Christopher Graham, complainant, and the steamboat General Pike and owners, defendants, and have then there this writ, with the names of said jury.

Witness Charles J. Clarke, clerk of our said court, this 25th day of June, 1845, and in the 54th year of the commonwealth.

CH. J. CLARKE, *Clerk.*

Marshal's return.

Upon which the marshal made the following return, to wit, executed, and the following jurors appeared, viz: Jacob Owen, Jabez Baldwin, Benjamin T. Tivis, John G. Taylor, Samuel Russell, James Marshall, John Lilly, T. E. Alilson, M. Dickson, H. R. Hobbin, Michael Smith, and L. Batchelor, to make the jury required by the within writ.

J. A. CRITTENDEN, *M. L. C. C.*

Jury discharged, &c.

At a court held for the court as aforesaid on the 27th day of June, 1845, came again the parties by their counsel, and the venire facias which issued herein being returned executed, &c., the jurors appeared, &c.; and thereupon on motion of the defendants it is ordered, that the jury be discharged, and that this cause be continued.

Set for 24th instant and jury ordered.

At a court held for the court as aforesaid on the 12th day of September, 1845, came the complainant by his counsel, and on his motion it is ordered, that this cause be set for trial here, on Wednesday, the 24th instant, and the clerk is directed to issue a venire facias returnable here then at 10 o'clock, A. M.

Which venire is as follows, to wit:

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We command you to summon and empannel twelve good and law-

ful men, housekeepers, to appear before the Chancellor of our Louisville chancery court, at the court-room thereof, in the city of Louisville, on Wednesday, the 24th instant, at 10 o'clock, A. M., of said day, then and there to be sworn as jurors, to inquire and ascertain such facts as shall then and there be submitted to them by our said Chancellor, in the case of Christopher Graham, complainant, against the owners of the steamboat Pike, defendants, and have then there this writ, with the names of said jurors.

Witness Charles J. Clarke, clerk of our said court, this 17th day of September, 1845, and in the 54th year of the commonwealth.

CH. J. CLARKE, *Clerk.*

Laid over until 2d October, and jury ordered then.

At a court held for the court as aforesaid on the 23d of September, 1845, came the defendants by their counsel, and on their motion it is ordered, that this cause be and the same is hereby laid over until Thursday, the 2d day of October next, and the clerk is directed to issue a venire facias returnable here then at 10 o'clock, A. M.

Which venire is as follows, to wit:

Venire facias.

The Commonwealth of Kentucky, to the marshal of the Louisville chancery court, greeting:

We command you to summon and empannel twelve good and lawful men, housekeepers, to appear before the Chancellor of our Louisville chancery court, at the court-room thereof, in the city of Louisville, on Thursday, the 2d day of Octobet next, at 10 o'clock, A. M., then and there to be sworn as jurors, to inquire and ascertain such facts as shall then and there be submitted to them by our said Chancellor, in the case of Christopher Graham, complainant, against the owners of the steamboat Pike, defendants, and have you then and there this writ, with the names of the said jurors.

Witness Charles J. Clarke, clerk of our said court, the 25 day of September, 1845, and in the 54th year of the commonwealth.

CH. J. CLARKE, *Clerk.*

Upon which the marshal made the following return, to wit:

Marshal's return.

Executed, and the following persons appeared, viz: Matthew Leach, John Lilly, Thomas Coleman, James Irvin, Samuel Tenowine, T. G. Rucker, John Howard, jr., Thomas Reaugh, Harvey Parnide, H. A. Griswold, Jacob Owen, and Thomas A. McGrath, to make the jury required by the within writ.

J. A. CRITTENDEN, *M. L. C. C.*

Jury met, and argued in part, and laid over till 3d October.

At a court held for the court as aforesaid on the 2d day of October, 1845, came the parties complainant and defendants, by their counsel, and thereupon the defendant, John Armstrong, by his counsel, produced and offered to file his written exceptions to the depositions of John Turner and R. Hinkle, taken herein on the part of the complainant; which exceptions were rejected by the court because the parties were notified at the last calling of this cause that unless exceptions were taken to the deposition, and filed before the cause was set for trial and jury ordered, they would not then be received.

And the venire facias issued herein being returned by the marshal executed, and thereupon the following jurors appeared, to wit:

Matthew Leach, John Lilly, Joseph Irvin, Thos. Coleman, Samuel Tenowine, Thos. G. Rucker, John Howard, jr., Thomas Reaugh, Harvey Parnide, H. A. Griswold, Jacob Owen, and Thomas A. McGrath, who being elected, tried, and sworn, to inquire into and ascertain such facts as shall be submitted to them respecting the asportation of said slaves Reuben, Henry, and George, and the damages to the complainant thereby, and a true verdict render according to the evidence; and thereupon the complainant by his counsel submitted the following as facts to be inquired of by the jury, to wit:

1st. Whether the slaves, Reuben, Henry, and George, in the complainant's bill alluded to, were taken on board the steamboat Pike within the State of Kentucky, and carried on board said steamboat Pike, belonging to defendants Strader and Gorman, and commanded by defendant Armstrong, out of the limits of Kentucky, in the year 1841.

2d. Whether the said slaves, George, Reuben, and Henry, were so carried without any exemplification of a record to prove their freedom, and without consent or permission of their owner?

3d. Whether the negroes, Reuben, Henry, and George, were slaves, and the property of the complainant, when they were so taken and carried on board the steamboat Pike?

4th. What damages the complainant has sustained by the unlawful asportation of the slaves Reuben, Henry, and George, from this State to parts out of this commonwealth, by means and on board of the steamboat Pike, owned in 1841 by the said defendants Strader and Gorman, and commanded by said Armstrong?

After which the parties offered to read to the jury the pleadings, evidence, and exhibits filed in the cause, and then the defendants, by their counsel, moved the court to instruct the jury as follows, to wit:

1st. That the value of said slaves is not the criterion of damages, but that if the Pike took the slaves complainant is entitled to recover the actual damage occasioned by their transportation to Cincinnati on board the steamboat Pike.

2d. That if they believe from the evidence that complainant's loss has not been the consequence altogether of the transportation of said slaves to Cincinnati on the steamboat Pike, they can only find such

damages as are fairly attributable to the transportation of said slaves to Cincinnati as aforesaid.

3d. That it is proper for the jury to take into consideration the facilities of escape afforded to said slaves by complainant's permitting them to go at large in diminution of damages.

4th. That in estimating the damages it is proper for the jury to take into consideration their habits of going at large, the liberties allowed them by complainant, and the effect of such liberties in affording them facilities and opportunities for escape, and in giving them an inclination or wish to escape; and that the effect of these circumstances is to be regarded as influencing their value, and also in determining how much of the complainant's damages is justly attributable to the particular boat on which they happened to escape.

5th. That if they believe from the evidence that complainant's loss is fairly attributable to his own conduct in allowing his slaves greater privileges than were consistent with the policy of the law, they may find only nominal damages.

6th. That if they do not believe from the evidence in the cause that they were taken on board the steamboat Pike as charged in the bill, they must find for the defendants.

7th. If the jury believe from the evidence that the slaves of the plaintiff in the bill mentioned, or any of them, were by the plaintiff hired or bound, or given into the possession of Williams, a free man, to be carried by him to Ohio and Indiana, to perform services as his slaves, and that the plaintiff was a citizen and resident of Kentucky, and that the slave or slaves of the plaintiff were, in pursuance of such express authority of the plaintiff, taken by Williams to Ohio and to Indiana, and that they did perform services as plaintiff's slaves in Ohio and Indiana, with plaintiff's express authority before the date of the asportation complained of by the bill, that in such case such slave or slaves, so taken to Ohio and Indiana, and performing services as slaves, were under the obedience of Congress in relation to the territory northwest of the Ohio entitled to their freedom, and the plaintiff cannot as to such slave or slaves maintain his bill.

8th. That the confessions of party are the weakest of all evidence deemed competent in law, and that the burthen of proving the asportation of the slaves as charged, rests upon the plaintiff in this cause.

9th. That if they believe the same facts above predicted, that then, under the constitution of Ohio, and the ordinance aforesaid, and the constitution of the United States, such slave or slaves become entitled to freedom. All of which said instructions were overruled by the court, except those marked 6 and 8; and in lieu of those overruled gave the following:

The court instructs the jury as to the amount and criterion of damages; if the slaves are hopelessly and irrecoverably lost, their fair value, or if their be a chance of recovery, their fair value, deducting the value of that chance, is the principal item of the damage they can find for complainant; that value to be ascertained by the price which the slaves

at the time of the asportation would have commanded among persons acquainted with their qualities, habits, and character; in ascertaining their value, the jury have a right to consider the appearance of the slaves, their manners, address, acquirements in music, habits of subordination or independence, the liberties which had been allowed to them, and the effect of all these circumstances, not only upon the value of their services, but also in generating a restlessness under restraint, and a desire of freedom, and in affording facilities and opportunities of escape, even if they had not been taken on board the Pike; and also to determine how far any of these considerations should operate to enhance or diminish the fair value of the slaves as such, before they were taken on board the Pike, if they were so taken.

The musical instruments in the possession of the slaves may be taken into the estimate of their personal value as musicians; as to the expenses incurred in the effort to recover the slaves, if that effort was prudently made, that is, if the prospect of success authorized the attempt, they may to a reasonable extent be estimated in the amount of damages; and although, after ascertaining where the slaves were, it should be deemed useless to have incurred any other expense reasonably incurred in ascertaining their condition, and the probabilities of recovering them; and the court not having time fully to hear the argument of counsel on this day, it is ordered, that all further proceedings herein be laid over till to-morrow morning at half past 8 o'clock.

Jury came, and argued in full, and verdict.

At a court held for the court as aforesaid on the 3d day of October, 1845, came again the parties, &c., and the jurors empannelled and sworn herein appeared according to adjournment, and this cause was fully and further argued and submitted to the jury, who retired to consider of a verdict, and after a short time returned into court the following verdict, endorsed upon the facts submitted by the complainant to be inquired of by the jury, to wit: We the jury find that the facts submitted to us within, true, and for the plaintiff, and assess the damages by reason thereof to three thousand dollars.

H. A. GRISWOLD, *Foreman*.

Bill of exceptions signed by complainant and submitted.

At a court held for the court as aforesaid on the 17th day of October, 1845, came the parties by their counsel, and by consent tendered to the court their bill of exceptions herein, which being signed and sealed by the Chancellor, is ordered to be enrolled and made a part of the proceedings herein. And thereupon this cause came on again to be heard, and was submitted, but the court not being advised took time, &c.

Which bill of exceptions *are* as follows:

Bill of exceptions.

Memo. On the trial of this cause the complainant read the depo-

sition of J. S. Graham; and also of John H. Rice; also of J. W. Cardwell; also of George N. Cardwell. The court excluded all hearsay and irrelevant matter in them, and especially the statement as to conversation with the hands of the Pike; also J. C. Vanarsdale; also the deposition of same witness taken 22d February, 1842; to the reading of which defendants severally excepted to, and especially defendant Armstrong objected, because it was taken before he was a party, and the court allowed this former deposition to be read as part of the deposition of the day of

Also the deposition of Peter Davis; also of James H. Coleman; also of J. E. Gaffin; also of H. S. McFatridge; also the deposition of C. C. Moore; also of C. Chinn; also of J. G. Carter; also of Joseph A. Thompson. The court excluded all hearsay and irrelevant matter in them, except what was heard from defendants, or some of them; all of which said depositions, except the first one of Vanarsdale, were certified on the 12th of May, 1845, and all in one bundle tied together, marked read No. 1, and made part hereof.

He then read the deposition of Thomas Helm, taken 10th April, 1845, marked read No. 2, and made part hereof; also the deposition of J. Tasso, marked read No. 3, and made part hereof; also the deposition of same witness, marked read No. 4. Defendant Armstrong to this and his objection overruled, because it was referred to in the deposition taken after Armstrong was made a defendant; also the deposition of J. G. Chiles, marked read No. 5, and made part hereof; also the deposition of Mays, marked read No. 6, and made part hereof; also another deposition of same witness, marked read No. 7; also the deposition of Rice, marked read No. 8; and the defendant Armstrong objected to the two last depositions, No. 7 and 8, and the overruled his objections, because they were referred to in the depositions taken after Armstrong was made defendant; also the deposition of R. Harlan, marked read No. 9, and made part hereof; also the deposition of L. L. Shreve, marked read No. 10, and made part hereof.

The defendant then read the deposition of J. Everett, marked read No. 11, and the paper therein referred to signed by plaintiff; also the deposition of Dunning, marked read No. 12, made part hereof; also the deposition of Thomas Riddell, marked read No. 13; also the deposition of Lyon, marked read No. 14; also the deposition of Madame Blaique, marked read No. 15; also the deposition of Fitzhugh, marked read No. 16; also the deposition of Captain James, marked read No. 17; also the deposition of J. C. Buckles, marked Buckles, read No. 18; and rejected the deposition of Armstrong offered by defendants Strader and Gorman, part of No. 18, made part hereof; also the depositions of P. R. Dunn, and J. W. Russell, marked read No. 19; also read the deposition of A. Throckmorton, marked read No. 20; also the depositions of D. Bereman and George N. Cardwell, marked read No. 21; also the deposition of F. S. J. Ronald, marked read No. 22; also the depositions of Phil. R. Gray and John B. Bland, marked read No. 23; and this was all the evidence.

The defendant upon this evidence asked the court to give the several instructions contained in papers marked instructions 25 and 26, and the Chancellor overruled all of those instructions, except those marked 6 and 8, and in lieu of all the others gave them the following, marked N. The defendants before the swearing of the jury offered to file exceptions to the deposition of Turner and Hinkle, made part hereof, but the court refused to let the exceptions be filed, because on a former day, when a jury had been called, the court stated to the counsel that in such cases where exceptions were intended to be taken to depositions, they must be filed before jury were ordered to be summoned. The counsel thereupon suggested, that all depositions taken against Armstrong before he was a party would be objected to; and upon an inquiry from the counsel of the complainant, the court at that time that they ought to retake the depositions; and after the trial commenced the complainant offered to read the deposition of Turner, who it appeared had died while the case was in the court of appeals, but the defendant Armstrong objected, and the court sustained the objections, and would not permit it or the deposition of Hinkle to be read, as to or against any of the defendants; and the defendants asked the court to set aside the verdict, because the court erred in allowing improper evidence for plaintiff, and rejected proper evidence for defendant; and in giving improper instructions for plaintiff, and refusing proper instructions for defendant; and because the verdict was contrary to the evidence, contrary to the law, and because the damages were excessive; and the court overruled the motion; to all of which defendants excepted, and now pray &c.

S. S. NICHOLS. [L. S.]

The exceptions referred to in the foregoing bill of exceptions are as follows:

Defendants' exceptions to deposition offered and rejected.

The defendant Armstrong excepts to the reading of the deposition of Robert Turner, because they were *were* taken when he was not a party to the suit, and he had no notice, either actual or constructive, of the time and place of taking the same, and no opportunity to cross examine him, either by interrogatories or otherwise.

DUNCAN & RIPLEY, *P. D.*

And he also excepts to the deposition of J. Hinkle, because taken irregularly, and before he was a party.

DUNCAN, *P. D.*

Decree.

At a court held for the court as aforesaid on the 6th day of November, 1845, the court being now advised, and the jury empannelled here-

in having found the facts submitted to their inquiry for the complainant, and assessed his damages at $3,000; it is now ordered and decreed that the complainant is entitled to have so much for his damages by him sustained, &c., and unless the said sum be paid by the 15th day of this month, or the said steamboat Pike, her engine, tackle, and furniture, be then forthcoming, to be sold for the purpose of raising the same, together with the complainant's costs, &c., and in as good plight and condition as when the bond of said Armstrong and C. M. Strader herein was executed, or of value sufficient to satisfy the said sum and costs, the court will make such order as shall be necessary against the obligors in said bond, to enforce said judgment, &c.

Order granting appeal.

At a court held for the court as aforesaid on the 28th day of November, 1845, came the complainant by his counsel, and produced a copy of the order or decree rendered herein, with an endorsement thereon of its service on Charles M. Strader and John Armstrong, and they not appearing in court, although now solemnly called; whereupon, and by consent of the parties, said decree is to stand and be considered as a final decree in this cause, and from which an appeal may now be taken.

And thereupon the defendant Jacob Strader, James Gorman, and John Armstrong, prayed an appeal to the court of appeals, which was granted them upon their entering into bond in the clerk's office of this court to the complainant, within twenty days, in the penalty of six hundred dollars, with James Thompson security, conditioned according to law.

The depositions taken on the fact of the complainant in this cause are as follows, to wit:

Deposition of James S. Graham.

The deposition of James Graham, taken on the 2d day of April, 1845, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages, and value of each one? State their complexion, and all you know about them fully.

1. He answers, that I do know the slaves in controversy in this suit, and have known them for a good many years, but do know the precise length of time; from my knowledge of them I suppose them to be about the age of twenty-one years, at the time they went off; I suppose at that time they were worth at least the sum of $1,500 each.—Their complexion was yellow, and they were first rate musicians, excellent dining-room servants, and in their deportment obedient and humble.

2. To whom do they belong; and state who owned them for the last three years.

2. He answers, he says they belonged to Christopher Graham, who owned them several years previous to their escape.

3. What has become of said slaves?

3. He answers, that they made their escape from the State of Kentucky, and I understood to Canada.

4. If you say they made their escape, say when and how you know the fact, and state all the facts in relation thereto fully.

He answers, he says that they escaped some time in the early part of spring of 1841. He only knows left the State, and understands from others that they left on the steamboat Pike.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he says he believes the steamboat Pike belonged to Messrs. Strader and Gorman, in the year 1841.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, that complainant did make an effort to regain the slaves in controversy; that I went myself to Cincinnati in hopes of regaining them there, and that complainant himself went to Canada on the same business, and hired several persons who went along with him, and presumes that the amount of money expended would not be far short of $1000. After complainant returned from Canada, he sent Shelton Morris of Louisville to Canada, expecting from information received from them that he might succeed in regaining them.

7. State any other facts you may know material for complainant.

7. He answers, he does not know that he has any thing further in answer to this question.

To complainant's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced any by high musical attainments. Is or is not a negro slave who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you knew the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, that the value of the negro slave is enhanced by high musical attainments; that a servant who performs well on a violin, and who would compose a valuable part of a company of musicians, would be more valuable on that account. He says he does know the slaves sued for, and thinks them much more valuable because they were musicians. I would suppose that they would be worth from fifty to one hundred per cent. more, than they would be without their musical attainments, for they would bring that much more in market.

2. State if it would depreciate the value of the slave living in the interior of Kentucky, to be sent to Louisville, under the guidance of a prudent overseer to learn music, or to play at parties. And whether it

would lessen the value of a slave who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them?

2. He answers, he thinks it would not depreciate the value of them to be sent to Louisville, Kentucky, to learn music, or to play at balls or parties. He also thinks it would not lessen the value of slaves to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, to play for parties as musicians, with a prudent person charged with their management; on the contrary, I think that the additional practice and opportunities offered of acquiring the latest style of dances and music, would add to their value.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, he thinks it would not injure a slave of good character, to go to Cincinnati to make music at balls or parties, when placed under the guidance of a prudent superintendent, and he thinks it would have greater confidence in a slave, who (when in Cincinnati,) would voluntarily return to his master, and serve him obediently.

4. State if the slaves, Reuben, Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off, after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, he says they never did evince any disposition to run off, after they returned from Versailles, Frankfort, Danville, or Louisville, or from any other place, for they seemed obedient, contented, and happy, and deponent does not believe they ever would have gone off, unless persuaded by others to go, and from the fact, (as he has understood,) that the boy Albert, who belonged to Mrs. Littell, of Louisville, and went off at the same time and in company with the slaves in controversy, and afterwards recovered from Canada, and sold in the South, having made his escape to Louisville, took passage again on the same steamboat Pike, and passed up the river on her as far as Carrolton, when he was discovered by some gentlemen to be a runaway slave, and lodged in the jail at Carrolton, by some one at that place, and afterwards brought to Louisville, and there lodged in jail, when his master removed him; and he would infer that some one connected with said boat was in the habit of affording assistance, and thereupon inducements to slaves to run off.

5. State if the value of the slaves, mentioned in complainant's bill, was lessened by the privilege which may have been extended to either by their master.

5. He answers, he thinks that the privilege extended to the slaves by their master did not lessen their value.

6. State all else you may know favorable to plaintiff.

6. He answers, he says that Peter R. Dunn, who lives about six miles from Harrodsburg, and who has given a deposition in this cause,

is known in this county to be an abolitionist, and deponent would not have confidence in what he might state in any similar case to this, when any abolition question might be brought to bear, owing to strong natural prejudice, particularly on the subject of slavery, where damages were claimed for the abduction of slaves.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1st. State if said slaves were not musicians.

1. He answers, that the slaves in controversy were musicians.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

2. He answers, that he did not permit [them] to go where they pleased, for he has heard complainant tell them, when leaving home, that they were only to go to Lexington, and towns around, and persons there were requested to take charge of them.

3d. About what time did said slaves escape?

3. He answers, about the spring of 1841.

4th. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati and play as musicians?

4. He answers, he says that he may have permitted them to go while under Williams, their instructer, but I know that he did not after they were taken out of the charge of Williams.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, he says they were placed under Williams to learn music, and were in the habit of playing with him; but whether they ever went to either Indiana or Ohio, he does not know.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, he says he has no opportunity of examining.

7. Was not Williams in company with them, when you say you saw them on the Pike?

7. He answers, he knows nothing in answer to this question.

And further saith not

JAMES S. GRAHAM.

John W. Cardwell's deposition.

The deposition of John W. Cardwell, taken on the 2d day of April, 1845, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1. He answers, he says he has known the slaves in controversy for several years; that I would say they were young men, and from their appearance I would say that they are between twenty and twenty-five

years of age; their complexion is yellow; I know them to be first rate musicians, fine dining-room servants, and more humble, obedient, and attentive servants I have never seen. They were owned by Christopher Graham for three years previous to their escape, their names are Reuben, Henry, and George.

The second interrogatory is omitted.

3. What has become of said slaves?

3. He answers, he says they run off from complainant, and I have learned that they are in Canada.

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, it was in the spring of 1841 they made their escape, and from conversation with J. C. Vanarsdale, who pursued them, I learned that they went off from Louisville to Cincinnati, on the steamboat Pike.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he says he knows nothing.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, that he knows complainant and several others went to Canada in pursuit of them, and has learned that he afterwards sent Shelton Morris, of Louisville, to Canada after them, complainant having received a letter from them, that if he would send Morris with money they would return with him. The whole amount of money expended by complainant, I suppose, is very considerable, but do not know the exact amount.

7. State any other facts you may know material to complainant.

7. He answers, he knows nothing that would be material to complainant.

To complainant's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you knew the slaves sued for by the complainant in this case, and state if they were more valuable, or less so, because they were musicians.

1. He answers, I would suppose from my own knowledge of the slaves in controversy, their character, and high attainments in music; that they would be worth double what they would uninstructed.

2. State if it would depreciate the value of a slave being in the interior of Kentucky, to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to

play at parties, when a prudent person was charged with the management of them.

2. He answers, he says he would think it would not depreciate the value of the slaves, but would enhance the value, to go about and play for balls and parties, inasmuch as it would improve them in practising, and make them more valuable to their owner.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendant.

3. He answers, I suppose it would not.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville?

4. He answers, I never knew or heard of their evincing any disposition to run off after they returned.

5. State if the value of the slaves mentioned in complainant's bill, was lessened by the privilege which may have been extended to either, by their master.

5. He answers, he thinks their value was not lessened by the privilege of going abroad.

Sixth. State all else you may know favorable to complainant.

6. He answers, I know them to have been good martial musicians, having frequently employed them to make music for the military company I commanded, and paid for them double the price I ever paid to other music. That I know Peter R. Dunn, who lives about six miles from Harrodsburg; that he knows him to be an abolitionist, and that he emancipated his own negroes in consequence of his opposition to slavery; that he has heard him say, that it would be cheaper for men to hire labor, than to own it. That he did not regard property of that kind of any value. That he knows Dunn to be a man of exceedingly high prejudices, and that I would not regard the man entitled to any credit in a controversy of this kind, who knew those negroes and their qualifications, and would swear that they were not worth a dollar.

Cross interrogatories by defendants, propounded to complainant's witnesses.

1. State if said slaves were not musicians?

1. He answers, he states the slaves were musicians, and very fine ones at that.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering seasons at Harrodsburgh?

2. He answers, he only allowed them to go to certain designated places, as I have understood.

3. About what time did said slaves escape?

3. He answers, in the spring of the year 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

4. He answers, I have no knowledge from hearsay or otherwise, that he permitted them to go to Cincinnati.

5. Did he not allow them to stay with Williams, and to play for him, and go with him to Indiana and Ohio, to play?

5. He answers, I have no knowledge of it; I understood that Henry and Reuben were put with Williams at Louisville, to learn music, but do not know that they ever went to Indiana or Ohio, to make music.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, I have no opportunity of seeing the letters referred to.

7. Was not Williams in company with them, when you say you saw them on the Pike?

He answers, I never saw Williams on the Pike.

J. W. CARDWELL.

Deposition of J. H. Rice.

The deposition of J. H Rice, taken on the 2d day of April, 1845.

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

He answers, I do know them, and have known them ever since complainant bought them, which has been some eight or ten years; says they are likely young men, and from their appearance would say that they are about from twenty to twenty-five years of age, of yellow complexion, their names are Reuben, Henry, and George; they were worth about $2,000 each; they were humble, obedient, and contented, as far as I ever knew or heard of them.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, he says they belong to Christopher Graham, and have belonged to him for eight or ten years.

3. What has become of said slaves?

3. He answers, he has understood and so believes, that they have made their escape to Canada, and that

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, that they went off in the spring of the year 1841; how they effected their escape he does not know of *their* own knowledge.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he does not know.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, that complainant went to Canada with several other

persons after them, and must have spent a considerable amount, and from what I have understood he spent near one thousand dollars.

7. State any other facts you may know material to complainant.

7. He answers, to this question he has nothing to say.

Plaintiff's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, he says he would consider the value of a slave enhanced by high musical attainments; that a slave who would compose a valuable part of a company of musicians is more valuable on that account. He thinks he knows the slaves mentioned in this question, and knows they were more valuable on account of their high musical attainments; that they were worth double the amount they would be without such attainments.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, he does not think it would depreciate the value of a slave to be sent to Louisville under the guidance of a prudent overseer; that it would not lessen the value of a slave to go to Danville, Versailles, or Frankfort, to play at parties, but deponent, from having given attention to the principles of music, would think it would rather enhance than depreciate their value, by going and playing and practising at parties, and this he considers necessary to keep up the fashionable style of music, and the forms of cotillons.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, it would not lessen the value of a slave under such circumstances to go to Cincinnati, and that he would have greater confidence, and put a greater value on a slave after he had been there and returned voluntarily, and served his master, satisfied and contented as he knows the slaves in controversy to have done.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, I have no knowledge from hearsay or otherwise, that he permitted them to go to Cincinnati.

5. Did he not allow them to stay with Williams, and to play for him, and go with him to Indiana and Ohio, to play?

5. He answers, I have no knowledge of it; I understood that Henry and Reuben were put with Williams at Louisville, to learn music, but do not know that they ever went to Indiana or Ohio, to make music.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, I have no opportunity of seeing the letters referred to.

7. Was not Williams in company with them, when you say you saw them on the Pike?

He answers, I never saw Williams on the Pike.

J. W. CARDWELL.

Deposition of J. H. Rice.

The deposition of J. H Rice, taken on the 2d day of April, 1845.

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

He answers, I do know them, and have known them ever since complainant bought them, which has been some eight or ten years; says they are likely young men, and from their appearance would say that they are about from twenty to twenty-five years of age, of yellow complexion, their names are Reuben, Henry, and George; they were worth about $2,000 each; they were humble, obedient, and contented, as far as I ever knew or heard of them.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, he says they belong to Christopher Graham, and have belonged to him for eight or ten years.

3. What has become of said slaves?

3. He answers, he has understood and so believes, that they have made their escape to Canada, and that

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, that they went off in the spring of the year 1841; how they effected their escape he does not know of *their* own knowledge.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he does not know.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, that complainant went to Canada with several other

persons after them, and must have spent a considerable amount, and from what I have understood he spent near one thousand dollars.

7. State any other facts you may know material to complainant.

7. He answers, to this question he has nothing to say.

Plaintiff's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, he says he would consider the value of a slave enhanced by high musical attainments; that a slave who would compose a valuable part of a company of musicians is more valuable on that account. He thinks he knows the slaves mentioned in this question, and knows they were more valuable on account of their high musical attainments; that they were worth double the amount they would be without such attainments.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, he does not think it would depreciate the value of a slave to be sent to Louisville under the guidance of a prudent overseer; that it would not lessen the value of a slave to go to Danville, Versailles, or Frankfort, to play at parties, but deponent, from having given attention to the principles of music, would think it would rather enhance than depreciate their value, by going and playing and practising at parties, and this he considers necessary to keep up the fashionable style of music, and the forms of cotillons.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, it would not lessen the value of a slave under such circumstances to go to Cincinnati, and that he would have greater confidence, and put a greater value on a slave after he had been there and returned voluntarily, and served his master, satisfied and contented as he knows the slaves in controversy to have done.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, they never to his knowledge did evince any disposition to escape after returning from these places, or did he ever hear of their having any disposition to go off; and from my knowledge of the slaves, and their treatment by their master, I do not believe they ever would have gone, except under the influence of some other person, or inducement held out from persons; nor does he believe that they would have accepted a proposition to go off any sooner than slaves in general would.

5. State if the value of the slaves mentioned in complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, that the value of none of the slaves mentioned in complainant's bill was not lessened by the privileges extended to them by their master.

6. State all else you may know favorable to plaintiff.

6. He answers, he says that he knows that their services were very valuable. He also knows of his father, a tavern keeper in Harrodsburg, having paid the sum of $50 for their services one night at a ball, and that that sum was not an unusual price to be paid for them. He also says that he was one of the committee of one of the societies of Bacon College, who contracted with and paid complainant the sum of $50 for their services, at one of the commencements of one of the sessions of said college, and that the time occupied did not exceed three hours. He says further that he knows Peter R. Dunn, who lives about six miles of Harrodsburg; that he is known to be an abolitionist; that he has emancipated his own slaves; that he has been taking abolition papers for several years.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, that they were first rate musicians.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburgh?

2. He answers, he does not know of their ever going about where they pleased, or without his permission; does he know of their ever going any where; from my knowledge of complainant, I would say that he has been, and still is, a very prudent, cautious, and managing master of slaves.

3. About what time did said slaves escape?

3. He answers, about the spring of the year 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, and play as musicians?

4. He answers, I do not know anything about it.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, I know nothing about that either.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

7. Was not Williams in company with them, when you say you saw them on the Pike?

6 & 7. He answers, that he has not an opportunity of examining the letters mentioned, and never said, *and* does he say now, that he saw Williams or them on the Pike. He further states that he has heretofore given his deposition in this case, and now adopts that deposition as a part of this.

And further saith not

J. H. RICE.

Deposition of George N. Cardwell.

Also the deposition of George N. Cardwell, taken at the same time, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1. He answers, he states that he has known them for a number of years; in fact ever since Dr. Graham has owned them; their complexion is yellow; they are likely young men, and from their appearance would suppose to be, at the time they left, about the age of 20, 21, and 24 years each.

2. To whom do they belong; and state who owned them for the last three years.

2. He answers, they belong to complainant, and have belonged to him some six or eight years.

3. What has become of said slaves?

3. He answers, he has heard they run off in the spring of the year 1841, and went to Canada.

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, he heard it publicly spoken of about the time, and of complainant's pursuing them to Canada, in company with others.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he knows not who owned the Pike.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, that he did make considerable effort to recover them, by following them to Canada, with Mr. Vanarsdale and McFatridge, who both have told deponent that they had gone to Canada. He states further that Vanarsdale has told him that they had additional company from Cincinnati; that, after they returned, he has heard that the slaves have written a letter to complainant, and told him that if they would send Shelton Morris, of Louisville, with money to bear their ex-

penses, that they would return, and that he did send Shelton Morris, who returned without them; as to the money expended by complainant, he can say nothing, but from the time he was gone, and time of himself and hand with him, that it must have amounted to a considerable sum.

7. State any other facts you may know material to complainant.

7. He answers, he recollects nothing at this time.

Plaintiff's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case, and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, that the value of a slave is enhanced by musical attainments; that a negro slave is much more valuable who composes a part of a band of musicians. That they were much more valuable as musicians than they would be without those musical attainments; that those negroes possessed, and would say, that they were worth twice as much. He further states that the negroes in this controversy were all and each very fine dining-room servants; they were mild, obedient, and well behaved negroes, and never evinced anything like discontent with their situation, nor did I ever know of any of them being dissatisfied either with their master or their home.

2. State if it would depreciate the value of the slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer to learn music, or to play at parties. And whether it would lessen the value of a slave, who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, that it would not depreciate the value of the slaves under the circumstances mentioned in this question, but on the contrary would in my opinion very much enhance their value, inasmuch as it would keep them in constant practice, and that practice would very much improve them in the science of music, as well as in dancing the different forms of cotillons, rules, &c.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, that in answer to the question, that it would not depreciate the value under the circumstances, but on the contrary, if a slave had gone there in the capacities of musician, and had returned, that would in my estimation very much enhance the value, showing

thereby that he was not dissatisfied with his situation, when he would return voluntarily.

4. State if the slaves, Reuben, Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off, after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, that he never saw or heard of their having any disposition in them to go off, nor does he believe they ever would have gone off, had they not had inducements held out to them by other persons. That he was greatly surprised when he heard they had gone; that he has reason to believe that there must have been inducements held out to them, either by some one on the boat, or who was familiar with the boat.

5. State if the value of the slaves, mentioned in complainant's bill, was lessened by the privilege which may have been extended to either by their master.

5. He answers, he does not think it was lessened, as they were generally playing at balls, parties, and martial music, and thereby improving themselves.

6. State all else you may know favorable to plaintiff.

6. He answers, that he is and has been acquainted with Peter R. Dunn, of this county, for a good many years, and that he knows him to be an abolitionist; that he lived in the store of which Dunn was one of the firm several years; that Dunn took abolition papers, which I was in the habit of taking out of the office frequently; those papers directed to Dunn. He knows that he has emancipated some of his own slaves, and employed them on wages afterwards. He knows that Dunn is a man of very violent prejudices, and does not think with those prejudices would give an impartial statement on oath, or otherwise, when the question of abolition presented itself, or indirectly.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, they were musicians of the first order.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

2. He answers, he did not permit them to go to certain places to fill engagements as musicians; that they were at Frankfort, Danville, and other places on such occasions.

3. About what time did said slaves escape?

3. He answers, about the month of February, 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati and play as musicians?

4. He answers, he says if they ever were permitted to go to Cincinnati he has no knowledge of it, or does he know of their ever being there before they ran off.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana or Ohio, to play?

5. He answers, he does not know of his ever permitting them to go either to Indiana or Ohio, for that purpose or otherwise; but that they were placed in charge of Williams for the purpose of learning music.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by [him.]

6. He answers, he has no opportunity of seeing the letters mentioned in this question, and therefore can say nothing about them.

7. Was not Williams in company with them, when you say you saw them on the Pike?

He answers, he never said he saw them or Williams on the Pike.

And further saith not

GEORGE N. CARDWELL.

Adjourned until to-morrow morning at 9 o'clock.

JAS. MORGAN, *J. P.*

Phillip B. Thompson's deposition.

Also the deposition of Phillip B. Thompson, taken at same place, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages, and value of each one? State their complexion, and all you know about them fully.

1. He answers, that he knows them all, and has known them for a good many years past, and would suppose from their appearance that, at the time they ran off, they were from twenty to twenty-three years of age each, and that their complexion is yellow; I think them to be worth at least fifteen hundred dollars each.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, they belong to Dr. Christopher Graham, and have belonged to him more than three years previous to their running away.

3. What has become of said slaves?

3. He answers, I do not know what has become of said slaves, but know that they have not been in possession of Graham since the spring 1841; and from what I have understood believe they are in Canada.

4. If you say they made their escape, say when and how you know the fact, and state all the facts in relation thereto fully.

4. He answers, he says *he* to this question he cannot say of his own knowledge any thing.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he does not know who owned said boat Pike in 1841.

6. State whether complainant ever made any effort to regain pos-

session of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he knows that complainant left here with the intention of going to Canada, to regain the slaves; that he took two or three men with him; that they were absent several weeks, and that upon their return he, as well as those who went with him, stated that they had been to Canada, and did not succeed in recovering the slaves, and that he did not bring the slaves back with him.

7. State any other facts you may know material for complainant.

7. He answers, his answer to this question is to be found in his answer to interrogatories subsequently filed by complainant.

Plaintiff's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, I should say that a negro slave of the description of those in controversy, and owned by a person having such an establishment as has complainant, would, if a good musician, and able to play so well and so correctly as to be allowed to play and operate in a ballroom, be worth at least five hundred dollars more than one without musical acquirements or attainments.

2. State if it would depreciate the value of a slave living in the interior of Kentucky, to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, if a prudent person had the charge and management of the slaves, it would not lessen their value to allow them to go to Louisville, Versailles, Frankfort, or Danville, Kentucky, to play at parties or balls.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, if a slave of good character was allowed to go to Cincinnati to make music at balls or parties, and upon his or their return to their owner was satisfied and contented, as deponent believes these were, from conversations with them, from their deportment, and from their obedience, he thinks that he would be more valuable; I know of their obedience and deportment from having boarded with complainant during the year 1840, and until May, 1841.

4. State if the slaves, Reuben, Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, I never knew of their evincing any disposition to run off after their return from Versailles, Frankfort, Danville, or Louisville, or at any other time.

5. State if the value of the slaves mentioned in the complainant's bill, was lessened by the privilege which may have been extended to either by their master.

5. He answers, I do not think the value of the slaves was diminished by any privilege that was extended to them by their master.

6. State all else you may know favorable to plaintiff.

6. He answers, that I know that they were very fine dining-room servants, that they were polite, brisk, and careful in waiting on the table; I have always understood that Peter R. Dunn was opposed to owning slaves.

Cross interrogatories to be propounded to complainant's witnesses.

1. State if said slaves were not musicians?

1. He answers, they were musicians.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

He answers, I don't know what privileges the complainant allowed them in the way of travelling.

3. About what time did said slaves escape?

3. He answers, I have not seen the slaves since the fall of 1840; I having been absent in the South, part of the winter of 1840, and 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

He answers, I do not know any thing about it.

5. Did he not allow them to stay with Williams, and play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, I do not know any thing about it.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, I have no opportunity of judging, as the letters are not present.

7. Was not Williams in company with them, when you say you saw them on the Pike?

He answers, I know nothing; I never saw them on board the Pike with Williams, or any other person.

And further saith not

PHILIP R. THOMPSON.

Adjourned till to-morrow.

JAMES MORGAN, *J. P.*

Met agreeably to adjournment.

JAMES MORGAN, *J. P.*

Deposition of Isaac C. Vanarsdale.

The deposition of Isaac C. Vanarsdale, taken at the same time and place, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1. He answers, that he does know them, and has known them for six or seven years; their ages are as follows, Reuben, between twenty and twenty-three; Henry, a year or two younger; and George, still a year or thereabouts younger than Henry; their complexion is yellow.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, he says they belong to complainant, Christopher Graham, and have belonged to him for 6 or 8 years.

3. What has become of said slaves?

3. He answers, he says that they are gone to Canada.

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, I suppose they went from Louisville on the steamboat Pike, for the city of Cincinnati, from there through the State of Ohio to Canada; these facts I know from conversations with some of the hands on board of said boat, when complainant and others, and myself, were on our way from Louisville to Cincinnati, in pursuit of the said slaves on said boat.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he states he does not know.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he says that he knows that complainant did make efforts to recover them, for I went with him to Canada myself after them; that in regard to the amount of money expended I cannot say, but do know that there were two other men besides myself who went to Canada after the slaves, making, with complainant Graham, four in number. We travelled day and night through Ohio, expecting when we left, from what we heard, to overtake them at Oberlin, in Ohio, but finding that they had left that place, we pursued them to Sandusky, and other points, to Detroit, where we ascertained they had crossed into Canada.

At Detroit, we remained devising plans and means to recover them for the space of ten days, not thinking it prudent to cross to Canada, there being an election going on at that time for members of a provincial parliament of Canada; and hearing that Col. Prim had hired them to play at one of the places of voting after the election was over, and excitement worn off, complainant chartered a steamboat, General Mc-

Comb, commanded by Captain Atwood, and raised a company of men; we having employed an agent, paid him some considerable sum of money to bring said slaves to the wharf at Malden, where we expected to be able to get them on board said boat, and on the shore of the United States, but was betrayed by said agent, and the expedition failed in consequence of the betrayal.

7. State any other facts you may know material to complainant.

7. He answers, the amount of money expended by complainant I cannot say; but we were gone about thirty days, and he paid me $2 per day, and paid all my expenses; after our return I saw a letter from said slaves to complainant, stating that they would return if he would send Shelton Morris with money after them to pay their expenses; complainant, as Morris told me afterwards, did furnish said Morris with money, and sent him after them, who also stated that he had been after them to Canada, and used every exertion, but could not succeed in getting them to come.

Complainant's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, in my opinion a negro slave would be much more valuable, and that they are worth double as much as they would be were they not musicians.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, he states that it would enhance instead of depreciate his value under such circumstances; that it would not lessen the value of a slave to be permitted to go to Versailles, Frankfort, Danville, or any other place in Kentucky, under the guidance of a discreet and prudent person.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, he says that he supposes it would not.

4. State if the slaves, Reuben, Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off, after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, if they or any of them ever did evince any disposition to run off, I never knew or heard of it.

5. State if the value of the slaves mentioned in the complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, I would not when entrusted with a careful hand; they had privileges extended to them when at home by their master, and I never saw any cause to think they were worth less.

6. State all else you may know favorable to plaintiff.

6. He answers, from my knowledge of complainant, I do not think he would extend any privilege to a slave that would lessen his value; that he is an industrious working man himself, and all others, whether servants or hirelings, when in his employ have to work.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, he says they were.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburgh?

2. He answers, not that I ever knew of.

3. About what time did said slaves escape?

3. He answers, as well as I know, it was in the spring of 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

4. He answers, never that I know of.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, not that I heard of; I heard that they had learned music under Williams.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, they are not before me, and about them I know nothing.

7. Was not Williams in company with them, when you say you saw them on the Pike?

He answers, I never saw either the slaves or Williams on the Pike; I have only said that I learned of their going off on the Pike from some of the hands on board of her, some time after the slaves had gone, but heard nothing of Williams having been with them.

And further says not, except that he has heretofore given depositions in this case, and now adopts those depositions as a part and parcel of this.

J. C. VANARSDALL.

Adjourned until Monday 5th.

JAMES MORGAN, *J. P.*

Met agreeably to adjournment.

Comb, commanded by Captain Atwood, and raised a company of men; we having employed an agent, paid him some considerable sum of money to bring said slaves to the wharf at Malden, where we expected to be able to get them on board said boat, and on the shore of the United States, but was betrayed by said agent, and the expedition failed in consequence of the betrayal.

7. State any other facts you may know material to complainant.

7. He answers, the amount of money expended by complainant I cannot say; but we were gone about thirty days, and he paid me $2 per day, and paid all my expenses; after our return I saw a letter from said slaves to complainant, stating that they would return if he would send Shelton Morris with money after them to pay their expenses; complainant, as Morris told me afterwards, did furnish said Morris with money, and sent him after them, who also stated that he had been after them to Canada, and used every exertion, but could not succeed in getting them to come.

Complainant's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, in my opinion a negro slave would be much more valuable, and that they are worth double as much as they would be were they not musicians.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, he states that it would enhance instead of depreciate his value under such circumstances; that it would not lessen the value of a slave to be permitted to go to Versailles, Frankfort, Danville, or any other place in Kentucky, under the guidance of a discreet and prudent person.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, he says that he supposes it would not.

4. State if the slaves, Reuben, Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off, after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, if they or any of them ever did evince any disposition to run off, I never knew or heard of it.

5. State if the value of the slaves mentioned in the complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, I would not when entrusted with a careful hand; they had privileges extended to them when at home by their master, and I never saw any cause to think they were worth less.

6. State all else you may know favorable to plaintiff.

6. He answers, from my knowledge of complainant, I do not think he would extend any privilege to a slave that would lessen his value; that he is an industrious working man himself, and all others, whether servants or hirelings, when in his employ have to work.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, he says they were.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburgh?

2. He answers, not that I ever knew of.

3. About what time did said slaves escape?

3. He answers, as well as I know, it was in the spring of 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

4. He answers, never that I know of.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, not that I heard of; I heard that they had learned music under Williams.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, they are not before me, and about them I know nothing.

7. Was not Williams in company with them, when you say you saw them on the Pike?

He answers, I never saw either the slaves or Williams on the Pike; I have only said that I learned of their going off on the Pike from some of the hands on board of her, some time after the slaves had gone, but heard nothing of Williams having been with them.

And further says not, except that he has heretofore given depositions in this case, and now adopts those depositions as a part and parcel of this.

J. C. VANARSDALL.

Adjourned until Monday 5th.

JAMES MORGAN, *J. P.*

Met agreeably to adjournment.

Peter Davis' deposition.

The deposition of Peter Davis, taken at the same place, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1. He answers, he states that he does know the slaves in controversy, Reuben, Henry, and George, and has known them ever since complainant bought them, which has been from six to eight years; as to the value of the slaves he can only say, that while living with complainant several years after he bought said slaves, he has heard him offered the sum of $2,000 cash each, for said slaves; their ages are from twenty-two to twenty-five years; their complexion yellow.

3. What has become of said slaves?

3. He answers, he states that he has always understood that they had escaped in the year 1841, and went to Canada.

2. To whom do they belong; and state who owned them for the last three years.

2. He answers, they belong to complainant, Dr. Christopher Graham, and have belonged to him as I have before said, for some 6 or 8 years.

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, I know that they made their escape, from the fact that complainant went in pursuit of them in the spring of 1841; and I have understood, not only from complainant, that he pursued them to Canada, but also from those who went with him.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, I know not.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, as before said, he did make efforts to regain them. He would add, that he sent his son in search of them before he himself followed them, and that I have understood that after complainant returned himself, he sent Shelton Morris after them; as to the amount of money expended I can say nothing.

7. State any other facts you may know material to complainant.

7. He answers, I do not think of anything material to complainant at this moment.

Complainant's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians,

more valuable on that account? State if you know the slaves sued for by the complainant in this case, and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

He answers, in answer to this question I would say, that to a person in complainant's situation, or even were a slave put in market, that he would be worth considerable more on account of his having high musical attainments; that a negro slave who performs well on the violin, and would compose a part of a band of music, is vastly more valuable than he would be unskilled in music; I have already stated that I knew them; I here state that they were much more valuable because they were musicians; that I would say, that a negro with these attainments in music, *were* worth double as much as *they* would be without.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties. And whether it would lessen the value of a slave, who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, where a prudent person was charged with the management of them.

2. He answers, I would not think it would lessen their value to be permitted to go in that way.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, I would think not.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, they never evinced a disposition to run off that I saw or heard of.

5. State if the value of the slaves, mentioned in the complainant's bill, was lessened by the privilege which may have been extended to either by their master.

5. He answers, I would say, that from their obedience and interest evinced by them in their strict attention to the duties, that their value was not lessened by any privilege that complainant extended to them.

6. State all else you may know favorable to plaintiff.

6. He answers, having been a clerk for complainant for about ten years, I have had every opportunity of finding out and knowing the habits and qualifications of said slaves; and I knew them to have been musicians of the first order, and the best trained dining-room servants I ever saw; and such was the opinion of others, in regard to their value, that I have heard complainant refuse (both in the summers of 1839 and 1840,) the sum of $2,000 cash each for them; I know that complainant sustained great loss by their running off, for he, notwithstanding

the high prices he has had to pay for music ever since, has never been able to procure a band of music that gave the same satisfaction to his company, or that managed the ball-room with anything like the same skill; I would further say that, from the attachment of said slaves for their master, I am satisfied that they would never have left him without some over-persuasion from some quarter; in regard to complainant's management of his slaves, I know him to have been humane and strict, and watchful, in regard to them, as well as make them do their work, as to pay great attention to their morals; I know, also, that whenever complainant was satisfied that a slave of his was disposed to steal, run off, or inclined to intoxication, would, before he would chastise him severely, sell them; that he never would keep one in his lot who had the bad qualities above mentioned. That complainant is a very industrious, laborious man, having made all he has by his own exertions; that he is celebrated for his good government and untiring attention to business.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. I have, and now repeat, that they were musicians.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

2. He answers, he never allowed them to go about that I know, except to appointed places, where they were well guarded.

3. About what time did said slaves escape?

3. He answers, in the spring of the year 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati to play as musicians?

4. He answers, he never did that I know of.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, that I have understood that they were bound as apprentices to Williams, to learn music, but know of no authority given to Williams to take them to Indiana or Ohio, nor do I know of his ever taking them to either of these States; I know that after they were taken from said Williams, and brought home, that complainant did not allow them to go further than Frankfort, towards either of those States.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, they are not before me, and I therefore have nothing to say in relation to them.

7. Was not Williams in company with them when you say you saw them on the Pike?

He answers, I never saw them or Williams on board the Pike.

And further saith not

P. DAVIS.

Deposition of James H. Coleman.

Also the deposition of James H. Coleman, taken at the same time and place, who deposes and says, to wit:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages, and value of each one? State their complexion, and all you know about them fully.

1. He answers, he says he knows the slaves in controversy, and has known them for many years, say from six to eight years; their ages are, from their appearance, from twenty to twenty-five years; their complexion is yellow; they are good musicians.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, he says they belong to Dr. Christopher Graham, of Harrodsburg, Kentucky, who has owned them for the last six or eight years.

3. What has become of said slaves?

3. He answers, he says that he has understood that they have run off.

4. If you say they have made their escape, say when and how you know the fact, and state all the facts in relation thereto fully.

He answers, they made their escape in the year 1841, as I have understood from general rumor, as well as from information received from complainant, and those who went in pursuit of them with complainant to Canada.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he says he knows not who owned the Pike in the year 1841.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he knows that complainant has made exertions to regain them by himself, together with the aid of others. He has understood that he followed them to Canada; as to the amount of money expended he cannot say, but it must be considerable, for he has been told that some two or three men went with him; that this information was received from those who did go with him.

7. State any other facts you may know material to complainant.

7. He answers, he says he has long observed the habits of complainant, and good government of his slaves; that he is one of the most watchful and cautious men I have ever known, and that he has sold several of his best servants whenever they evince any dissatisfaction or disposition to run off.

Plaintiff's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the

violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, he states that they are worth much more by high musical attainments; that a slave who is thus situated, is much more valuable than he would be were he a musician, and not belonging to a band. He says he does know the slaves, Reuben, Henry, and George, sued for by complainant; that they were worth double as much as they would be without the attainments they possessed they would be without; I state this from my own judgment, as well as from the high estimate I have heard put upon them by others; I have no doubt they would have brought from $1,800 to $2,000 each, had they been offered for sale.

2. State if it would depreciate the value of a slave living in the interior of Kentucky, to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, he says it would not, in his estimation, depreciate the value of a slave to send him to Louisville, to learn music under a prudent overseer; and that it would not lessen the value of a slave who was a musician, to be permitted to go to Versailles, Frankfort, Danville, Kentucky, occasionally, when under the guidance of a prudent person charged with the management of them.

3. State if the permitting of a slave of a good character to go to Cincinnati, twice or three times, to make music at a ball or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, I should think not.

4. State if the slaves, Reuben, Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, if they ever evinced any disposition to run off, either before or after they returned from those places, until I heard they were gone, I never heard of it.

5. State if the value of the slaves mentioned in complainant's bill, was lessened by the privilege which may have been extended to either by their master.

5. He answers, if he ever gave them any privileges I do not think it lessened their value; of this I am satisfied, from having frequently seen them at Dr. Graham's after they had returned from places he had sent them to, to make music.

6. State all else you may know favorable to plaintiff.

6. He answers, he says that in regard to the price of common field hands, about the time said slaves ran away, I know that they were selling in this neighborhood for about $1,000; I sold one myself, who was an ordinary field hand for $1,000 in cash, and I got the hire of a hand during the same year in addition, making, in the aggregate, the sum of not less than $1,050 or $1,060; I am satisfied from the appearance and qualifications of said slaves of complainant, as musicians and house-servants, that if put in market about the time they left, or a short time previous, they would have commanded from $1,500 to $2,000.

Cross interrogatories by defendants.

1. State if said slaves were not musicians?

1. He answers, they were.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering seasons at Harrodsburg?

2. He answers, he did not that I know or ever heard of.

3. About what time did said slaves escape?

3. He answers, as well as I recollect, it was early in 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, and play as musicians?

4. He answers, he did not to my knowledge.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, he did not that I heard of.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, the letters are not before me, and I therefore can say nothing in relation to them.

7. Was not Williams in company with them, when you say you saw them on the Pike?

7. He answers, I never said I saw them or Williams on the Pike. And further says not

J. H. COLEMAN.

Deposition of Ebenezer Magoffin.

The deposition of Ebenezer Magoffin, taken at the same time and place, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages, and value of each one? State their complexion, and all you know about them fully.

1. He answers, he says he does know the slaves in controversy in this suit, Reuben, Henry, and George; that he says he has known them [for] a considerable time; their ages, I would suppose to be, from

20 to 23 years; their complexion yellow; and would think them to be very valuable; but what their value is I cannot say.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, they belong to Dr. Graham, who has owned them for more than three years.

3. What has become of said slaves?

3. He answers, I have understood they are gone to Canada.

4. If you say they made their escape, say when and how you know the fact, and state all the facts in relation thereto fully.

4. He answers, from conversation with persons who went in pursuit of them, that they made their escape in the spring of the year 1841.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, I don't know.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he did make efforts to regain them; I have understood from him and others who went with him, that he followed them to Canada, saw them there, and that he expended a considerable quantity of money in going; the amount, I know not.

7. State any other facts you may know material to complainant.

7. He answers, I don't know of any other facts.

Complainant's interrogatories subsequently filed.

1. State if the value of a slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, I would suppose it would be, that a negro would be worth more with those attainments than without; I do know them, and that they were worth more on account of their musical attainments, at least double as much, and if put in market would bring at least double as much.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or play at parties; and whether it would lessen the value of a slave who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, where a prudent person was charged with the management of them.

2. He answers, I would suppose not in the least.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would

lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, I should not think that it would.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, I never heard of any of them evincing any disposition to run off, after going to those places.

5. State if the value of slaves, mentioned in complainant's bill, was lessened by any privilege which may have been extended to either by their master.

5. He answers, I think not; I have no doubt they would have sold for as much or more, than they would without being sent abroad to play.

6. State all else you may know favorable to plaintiff.

6. He answers, deponent states that he lives about five or six miles from Peter R. Dunn, and is well acquainted with him, and knows that he is a violent abolitionist, and a man of very high prejudices; such has been the boldness of the exhibition of his feelings in that particular, as to encourage insubordination and riots in slaves in the neighborhood, against the constituted authorities, such as destroying fences, grain stacks, and even attacking the house of one of the patrol in the neighborhood, and when arrested for such conduct, said Dunn came foward and done every thing in his power to secure them; these are facts well known in this country.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, they were musicians of the first order.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburgh?

2. He answers, he did not to my knowledge.

3. About what time did said slaves escape?

3. He answers, I have answered in the spring of 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, and play as musicians?

4. He answers, he did not to my knowledge.

5. Did he not allow them to stay with Williams, and to play for him, and go with him to Indiana and Ohio, to play?

5. He answers, I do not know that either.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, they are not before me, and if they were, I do not know the handwriting.

7. Was not Williams in company with them, when you say you saw them on the Pike?

7. He answers, he says he never saw either the slaves or Williams on the steamboat Pike.

E. MAGOFFIN.

Adjourned until to-morrow morning at 9 o'clock.

JAS. MORGAN, *J. P.*

Met agreeably to adjournment.

JAMES MORGAN, *J. P.*

Deposition of H. S. McFatridge.

The deposition of H. S. McFatridge, taken at the same time and place, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1. He answers, he states that he has known the slaves in controversy, Reuben, Henry, and George, and has had in fact the government of them for many years, having been bar-keeper at the Harrodsburg springs, during the watering season, for the last ten years; said boys were employed by complainant at said springs as musicians and house-servants. That in my estimation they were very valuable, and much enhanced by their musical attainments, as well as by their qualifications as house-servants.

He knows that they were considered first rate musicians, and having been in the habit of being about public houses all his life, and noticing servants, he knows them to have been the most active and efficient dining-room servants he ever saw. They were active, modest, and obedient, and attentive to all their duties, both to the satisfaction *to* visitors and their master, as well in the ball room as in other situations; such was the opinion of others of their high value, that he has frequently heard visitors say, that they were worth at least $2,000 a piece, or that if they belonged to them they would not take it.

Deponent further states that from his knowledge of the affairs of complainant, that since the loss of said slaves that he has incurred an expense annually, of at least five or six hundred dollars, in procuring music competent to fill their place, and yet the same satisfaction has never been given to his visitors. The youngest of said slaves was about the age of twenty, and the oldest about twenty-four years of age when they escaped; their complexion [was] yellow.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, he says that they belonged to complainant, Christopher Graham, of Harrodsburg, Kentucky, and have belonged to him for some eight or ten years past.

3. What has become of said slaves?

3. He answers, they were taken off from Louisville to Cincinnati on the steamboat Pike, and from there went to Canada.

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, they went off on the 9th of January, year 1841, and I know the fact of their having went off on said boat, from conversations with some of the hands on said boat, when complainant and others, and myself, were in pursuit of them, having learned from a passenger on said boat, who had been on board on the trips said slaves went up the river, that they had gone off in this way; complainant conversed with some of the hands on said boat, and ascertained the fact, and drew Captain Armstrong, the commander of the boat, into conversation in relation to them in my presence, who not knowing complainant or his object, conversed freely in relation to them, and admitted the fact, that they had gone from Louisville to Cincinnati on said boat in my presence. The manner in which said conversation commenced is this, complainant asked the captain if he did not keep a band of music on board, and hearing he had a band on said boat induced him to take passage on said boat; the captain answered, that he had no regular engagements for music; complainant then observed to him, that there were passengers on board who said that they had gone up a few trips previous, and that he had a very fine band of yellow musicians on board; he answered, that he had for a single trip, but that they did not belong to the boat; complainant then asked what had become of said band; he answered, that they had got off at Cincinnati, and that he had not seen them since; upon which complainant asked whether they were free or not; the captain then replied, that from their general appearance, and fine style they played, that he thought they were free, but afterwards, understood they belonged to some gentleman owning a watering place in Kentucky; complainant asked him whether they exhibited any pass or free papers; to which the captain replied, that supposing them to be free he did not ask them for any pass; complainant having ascertained what trip they went up the river, went to the register, and called several others, as well as myself, to aid him in getting the names of passengers and their residence, who had been on board said boat the same trip, that he might be able to obtain additional proof; seeing us thus *engage*, suspicion arose among the officers of said boat of what we were after; the clerk came and abruptly snatched the register from the table while complainant was examining it, saying that it was his property, and locked it up in his counting-room.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he says he don't know.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he says that complainant did make several efforts to regain possession of them; he first sent his own son to Ohio in search of them, and afterwards went himself, taking three others, including my-

self, and travelled day and night with a hope of overtaking them, having heard that they had been making some stay at Oberlin, Ohio, but upon arriving in the vicinity of Oberlin, we found they had gone on; complainant having ascertained from a gentleman who went with us from Cincinnati, who lived at Oberlin, and knew all the abolition stands, who conducted us through Ohio, from point to point, around the lake, at each of which points they had been but a short time previous; we continued our chase until we arrived at Detroit, at which point we ascertained that they had crossed into Canada. At Detroit we remained about ten days, laying plans and making arrangements for the purpose of recovering said slaves; complainant thinking it would not be prudent to cross into Canada short of that time, having ascertained from agents sent over that there was considerable excitement, owing to a warmly contested election, and ascertained that they had been employed by one of the candidates to play at one of the places of voting; complainant then chartered a steamboat with officers and strong guard on board, having engaged an agent who pledged, upon being well paid, that he would bring them on board said boat at the wharf in Malden, but said agent betrayed the trust reposed in him, so that, upon the arrival of said boat, a mob of some hundred were collected upon the wharf, and it was with some difficulty the boat escaped. Complainant having been left alone in the midst of them, remained some three or four days, and upon his return we came home unsuccessful, having been absent near thirty days. The amount of money expended by complainant I cannot say, but know that it could not be short of seven or eight hundred dollars.

Shortly after our return I saw a letter from said slaves to complainant stating that they wished to come back, and that if he would send Shelton Morris with money to bear their expenses, they would return with him; that said Morris did go, and returned without them.

(Interrogatories from 2 to 7 omitted.)

7. State any other facts you may know material to complainant.

7. He answers, to this question he answers, he thinks of nothing.

Complainant's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you knew the slaves sued for by the complainant in this case, and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, he would say that it is enhanced by high musical attainments; that a slave who composes a part of a band of musicians, is much more valuable than he would be without the acquirements. He has said, and now repeats, that he knows the slaves in controversy, and that they were much more valuable than they would have been

otherwise. I would say, that they were worth double as much on that account.

State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or play at parties; and whether it would lessen the value of a slave who was a musician to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, that it would not depreciate the value of a slave to be sent to Louisville, under a prudent supervisor; that it would rather enhance his value under such circumstances; that practice in music is necessary to give skill and confidence in the performance, and particularly in acquiring a knowledge of the various changes and new styles of cotillons and tunes, which alone can give satisfaction to fashionable company. He would therefore say that it would not lessen their value, but enhance it.

That from deponent's knowledge of said Graham's character, he would state that he is a prudent cautious man in all his affairs, and particularly in taking care of said slaves. The deponent has been engaged for about seven winter seasons at the Mansion House at Frankfort, Kentucky, as a bar keeper in said establishment; that complainant Graham instructed this deponent to keep a strict watch over said slaves, and not permit them to pass beyond Frankfort under any pretext whatever; and from what complainant said to witness, he did not wish or intend said slaves ever to visit Louisville; he permitted them to go to Lexington, Versailles, and Frankfort, for the purpose of making music at those places; and from the time he withdrew them from the charge and instruction of Williams at Louisville, he knows it was contrary to the orders of said Graham that they should ever visit that place again.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, deponent says that, in his opinion, the permitting a slave of good character to go two or three times to Cincinnati, to make music at balls or parties, would not lessen his value, provided he was placed under the guidance of a prudent superintendent; but, on the contrary, witness would have more confidence in a slave who had been at that place and returned home voluntarily, and served faithfully and contentedly, as he knew the slaves in controversy to have done, than one who had not been thus trusted.

4. State if the slaves, Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, he says that said slaves were obedient, respectful, and happy, and if they ever evinced a disposition at any time to run off,

I never knew or heard of it, nor could I believe that they could have been pursuaded to leave the complainant; they always professed great attachment for him, and appeared contented to remain at home.

5. State if the value of the slaves mentioned in complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, that in his opinion the value of said slaves was not lessened by the privileges extended to them by their master. Deponent knows that they performed all their duties at home well, and that their services at parties and elsewhere, were performed to the full satisfaction of those who employed them, so far as he ever heard of.

6. State all else you may know favorable to plaintiff.

6. He answers, he knows that about the time that said slaves ran away from complainant, common field hands were selling from $800 to $1,000. Deponent cannot say precisely as to the value of said slaves to complainant Graham, at seasons when he had no use for them at home; but judges from what he knows of their qualifications, and from the demand that there was for their services, that he was in the habit of getting for their services from $50 to $75 per night, at large balls and parties, and that was a customary sum for their services.

That it is the general impression through the neighborhood, that P. R. Dunn is an avowed abolitionist, but deponent cannot say that he ever heard him say anything on the subject; that he has emancipated his own slaves.

Cross interrogatories to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, he says they were musicians.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

2. He answers, I think not, except his having permitted them to go to Lexington, Frankfort, &c., under the guidance referred to.

3. About what time did said slaves escape?

3. He answers, as well as he recollects, it was in the trip of the steamboat Pike of the 23d of the month of January, 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati to play as musicians?

4. He answers, he never did to my knowledge allow them to go to Cincinnati, but he, after they were taken out of Williams' protection, has positively forbid their going either to Louisville or Cincinnati.

5. Did Graham not allow them to stay with Williams, and to play for him, and go with him to Indiana and Ohio, to play?

5. He answers, he has no knowledge of his ever allowing them to go either to Indiana or Ohio.

6. Examine the letters on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, I never saw the letters referred to, and therefore can say nothing.

7. Was not Williams in company with them when you say you saw them on the Pike?

He answers, I never saw them or Williams on board the Pike.

And further says not

H. S. McFATRIDGE.

Deposition of C. C. Moore.

The deposition of C. C. Moore, taken at the same time and place, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their age, and value of each one? State their complexion, and all you know about them fully.

1. He answers, that he does know, and has known the slaves in controversy, for a number of years; they were likely young yellow boys; as to their ages, I cannot say with any certainty, but would suppose them to be about twenty-two years old.

2. To whom do they belong; and state who has owned them for the last three years.

2. He answers, he says they belong to complainant, Christopher Graham, and have belonged to him for from six to ten years.

3. What has become of said slaves?

3. He answers, he says that he has understood they ran off in the winter or spring of the year 1841; says that it is from general rumor, not that he knows anything personal in relation to their making their escape.

4. If you say they made their escape, say when and how you know the fact; and [state] all the facts in relation thereto fully.

4. He answers, he says his answer to this question will be found in answer to question third.

5. Who owned the steamboat Pike during the year 1841?

5. He says, he does not know.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he has understood that complainant has made several efforts to regain possession of them, but knows nothing of his own personal knowledge; and knows nothing of the amount of money expended by him.

7. State any other facts you may know material to complainant.

7. He answers, he thinks of nothing at this time.

Complainant's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical

attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, he thinks a slave possessing high musical attainments; much more valuable, and one that belongs to a band of musicians, more valuable than he would be without these qualifications. He has said he knew them, and does think they were valuable; he would say they were worth $500 to $600 more on that account, and thinks they were worth at least $1,500 each.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties. And whether it would lessen the value of a slave, who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, he says that it would not depreciate the value of a slave thus situated, to go to Versailles, Frankfort, Danville, Kentucky, to play occasionally, but would rather enhance his value, for it would give him greater opportunities of improving himself in the science of music to be with a prudent manager.

3. State if the permitting of a slave of good character to go to Cincinnati twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, he thinks it would not lessen the value of a slave of good character to go to Cincinnati, provided he was under the superintendence of a prudent person entrusted with him.

4. State if the slaves, Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off, after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, he says if they ever evinced anything like a disposition to run off, or dissatisfaction with their situation before they did go, he never knew or heard of it.

5. State if the value of the slaves mentioned in complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, he says he is satisfied from their conduct and obedience that it was not lessened.

6. State all else you may know favorable to plaintiff.

6. He answers, he knows of nothing.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, he says they were first rate musicians.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburgh?

2. He answers, I had not any knowledge of complainant ever permitting them to go about where they pleased, nor does he believe from his management of his slaves he ever did permit them to travel about where they pleased.

3. About what time did said slaves escape?

3. He answers, says they ran off as well as I now recollect in the spring of 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, and play as musicians?

4. He answers, not that I know or ever heard of.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, never to my knowledge.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, they are not before me, and cannot say.

7. Was not Williams in company with them when you say you saw them on the Pike?

7. He answers, I never saw either Williams or the slaves in controversy on the Pike.

And further saith not

C. C. MOORE.

Deposition of Christopher Chinn.

The deposition of Christopher Chinn, taken at the same time and place, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, state how long have you known them; what is their ages, and value of each one? State their complexion, and all you know about them fully.

1. He answers, I can only say that I knew the two boys that complainant bought of the estate of Dr. Hunn, deceased; does not know their names; that they were very likely mulatto boys; I have frequently seen them at Dr. Graham's as musicians. At the time complainant purchased them I understood *they* paid a high price for them on account of their appearance and natural musical talent. He says he knows them, and has known them ever since they were purchased by complainant, until they left; says he would suppose their ages to be between twenty-one and twenty-five years of age; he would not say how much they were worth, but considers their value had been considerably enhanced by the pains taken in improving their musical talents, from the original price paid by complainant for them.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, complainant owned them for more than three years previous to their running off.

3. What has become of said slaves?

3. He answers, he has understood they are in Canada.

4. If you say they made their escape, say when and how you know the fact, and state all the facts in relation thereto fully.

4. He answers, he knows nothing of his own knowledge.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, I know not.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he has understood that he made great efforts to regain possession of them; he understood he went to Canada and hired men to go with him; as to the amount of money he knows nothing.

7. State any other facts you may know material to complainant.

7. He answers, he says he thinks of nothing.

Plaintiff's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you knew the slaves sued for by the complainant in this case, and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, his answer to this question is to be found in his answer to first question in this deposition.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or play at parties; and whether it would lessen the value of a slave who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, he thinks it would enhance *its* value, for it would increase the demand by its being known the more generally.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, he says that eight or ten years ago that it would not, but at this time it would not be safe to let a slave of any character go to Cincinnati.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Danville, Frankfort, Versailles, or Louisville.

4. He answers, I have no idea of anything of the kind.

5. State if the value of the slaves, mentioned in complainant's bill, was lessened by any privilege which may have been extended to either by their master.

5. He answers, I think it enhanced their value by keeping them in constant practice in the science of music.

6. State all else you may know favorable to plaintiff.

6. He answers, he says he knows complainant to be a sober, industrious man, having made nearly all he has by his own exertions; that he came to this place poor, and by his economy and good management has acquired what he has. He further says that the loss of said slaves has been a serious one to his watering place, and that in my estimation they were superior musicians to any other band complainant has ever had at his watering place, either French or German.

Cross interrogatories by defendant to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, they were first rate musicians.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

2. He answers, I know nothing of my own knowledge, but understood that he permitted or sent them to the South.

3. About what time did said slaves escape?

3. He answers, it is my present impression it was in the spring of 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati to play as musicians?

4. He answers, never that I know or heard of.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, I understood they were with Williams, but never knew or heard of his allowing them to go either to Indiana or Ohio.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, they are not present.

7. Was not Williams in company with them, when you say you saw them on the Pike?

7. He answers, I never said I saw either Williams or them on the Pike.

And further says not

CHR. CHINN.

Adjourned until to-morrow.

JAMES MORGAN.

Deposition of J. G. Carter.

The deposition of J. G. Carter, taken at the same time and place, who deposes and says:

1. State if you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1. He answers, he says he does know the slaves in controversy, and has known them for about five or six years previous to their leaving; their ages are about from twenty to twenty-four years each; they are worth in my opinion from $1,800 to $2,000 each; their complexion is yellow.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, they belong to Christopher Graham, and have owned [them] for more than three years previous to their leaving.

3. What has become of said slaves?

3. He answers, they are from what I have heard in Canada; I ascertained this knowledge from frequent conversations from those who went to Canada with complainant in pursuit of them.

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, they made their escape in the early part of the year 1841, as above stated, from conversations with them who pursued them.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, I do not know.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, I can only state from the above conversations, that he made great efforts to regain possession of them, by pursuing them to Canada; I cannot say what *extent* of money he expended; it must have been considerable.

7. State any other facts you may know material to complainant.

7. He answers, I have been in the habit of visiting the house of complainant in all seasons of the year, for some seven or eight years past, and seen said slaves in all situations about the establishment; I always saw them lively and polite, and they appeared to be happy and contented; they were polished dining-room servants, and their musical attainments could not be excelled; having been in the habit of visiting and being about taverns a great deal, I unhesitatingly state, that they excelled any as dining-room servants I have ever seen.

Plaintiff's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical

attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, he says that the value of a slave is enhanced by high musical attainments; that one who composes a part of a band of musicians is more valuable on that account. He has said that he knew the slaves in controversy, and that their names are Reuben, Henry, and George; and would say that they were worth double as much as they would have been without those acquirements.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, he says he thinks not.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, I would say not; but if I had a slave and were to permit him to go to Cincinnati, who returned and conducted himself as did those slaves of complainant, I should put a higher estimation upon him, not that I know or ever heard of complainant permitting them to go to Cincinnati.

4. State if the slaves, Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, if they ever evinced any disposition to run off, after they returned from any of those places, I never knew or heard of it, nor could I have believed they would have run off. I would as soon have *expect* one of his children to run.

5. State if the value of the slaves mentioned in the complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, not in my opinion.

6. State all else you may know favorable to plaintiff.

6. He answers, I know complainant to be a sober, laborious, and industrious man, and as far as he is well known, is celebrated for his good government of his slaves and all others in his employ. He says that Peter R. Dunn of said county has been, for some time past, regarded as an abolitionist, and that is decidedly my opinion.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians?

1. He answers, they were musicians of the first class.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering seasons at Harrodsburg?

2. He answers, he never did to my knowledge; he has generally had a trustee for them whenever they were permitted to go to different places to make music, as far as I have always understood.

3. About what time did said slaves escape?

3. He answers, as before said, early in 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

4. He answers, never to my knowledge; if he did I have never heard of it.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, I have no knowledge of his ever permitting them to go to either Indiana or Ohio.

6. Examine the letters on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, they are not before me, and I can say nothing in relation to them.

7. Was not Williams in company with them, when you say you saw them on the Pike?

7. He answers, I never did, nor do I say now, that I ever did see either Williams *and* them on board the Pike.

And further says not

J. G. CARTER.

Deposition of Joseph A. Thompson.

The deposition of Joseph A. Thompson, taken at the same time and place, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1. He answers, he knows, and has known them for a number of years; their ages *are* at the time they ran away, were about twenty-two or three years each; their value in my opinion is $2,000 each; their complexion is yellow.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, they belonged to Christopher Graham from the time I first knew them, until they went off.

3. What has become of said slaves?

3. He answers, I understood that they run off, and are in Canada.

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, I know nothing of my own knowledge, but have understood from Dr. Graham, and others, that they ran off in the early part of the year 1841.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, I have been informed that Gorman and Strader, of Cincinnati, were the owners of her then.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he says that he has made great and extensive efforts to regain possession of said slaves; he says he has heard Graham, as well as those who went with him, say, that he had followed them to Canada and without success; as to the amount of money I have no knowledge, but from what I have heard, I should suppose it has cost him some six or eight hundred dollars. That while he was in Canada he was very badly treated by a mob of negroes, and the sacrifice of his life I should think .

7. State any other facts you may know material to complainant.

7. He answers, they were very fine, well proportioned, stout, likely, in fact, handsome young men; I paid for a boy without any of their qualifications, the sum of $1,060, in the year 1840.

Plaintiff's interrogations subsequently filed.

1. State whether the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a band of musicians, more valuable on that account?

1. He answers, I would think the value of the slaves in controversy was enhanced one hundred per cent., in consequence of their high musical attainments. That a negro slave who composes a part of a band of musicians is much more valuable on that account.

2. State if it would depreciate the value of a slave being in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties. And whether it would lessen the value of a slave, who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, I know that it would not lessen but enhance the value, for it would improve them in the science of music.

3. State if the permitting of a slave of good character to go to Cincinnati twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, I do not think it would; if I had one who had been permitted to go there and return, I would consider him more valuable if he returned of his own free will.

4. State if the slaves, Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off, after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, never did I hear or see of any disposition on the part of either Henry, Reuben, or George, to run off after they had been at Versailles, Frankfort, Danville, or Louisville.

5. State if the value of the slaves mentioned in the complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, I would think not, but rather enhance, as they were improving in the science of music.

6. State all else you may know favorable to plaintiff.

6. He answers, I know that complainant is a circumspect and uncommonly vigilant man, particularly in the management of his slaves. That he is a man who has made the principal part of his property by his own exertions. That he is a kind and beneficent master, and that such was the attachment of said slaves, Reuben, Henry, and George, to complainant, that I would not have believed they could have been induced to run off from him. That the loss sustained by complainant, by their running off, has been of great disadvantage to the watering place of complainant; and their place has never been supplied by any music he has been able to obtain, at from five to six hundred dollars per season. That I know that Peter R. Dunn is said to be an abolitionist; that he has emancipated some of his own slaves; and that he has been taking abolition papers.

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, they were scientific musicians, as well as fine prompters.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburgh?

2. He answers, I do not know of his permitting them to go where they pleased; but, as before said, I never knew of their being any place except Lexington and Danville.

3. About what time did said slaves escape?

3 He answers, as well as I recollect, it was early in 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

4. He answers, I never knew or heard of their being at Cincinnati, with or without permission.

5. Did not he allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, I never knew or heard of their being out of the State of Kentucky, with or without Williams.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, they are not here, and I know nothing about them.

7. Was not Williams in company with them when you say you saw them on the Pike?

7. He answers, I did not see them or Williams on the Pike.

And further says not

JOSEPH A. THOMPSON.

Deposition of Thomas Helm.

The deposition of Thomas Helm, taken at the clerk's office in Lincoln county, Kentucky, on the 10th of April, 1845, who says:

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you knew the slaves sued for by complainant in this case, and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, deponent states that he acted as commissioner under the decree of the Lincoln circuit court, in the suit of Francis Hunn against Anthony Hunn's heirs; exposed to sale to the highest bidder, before the door of the court-house in Stanford, in Lincoln county, on the 28th day of November, 1836, two negro men slaves, as the property of Anthony Hunn, deceased, upon a credit of six months with interest from the day of sale; they were very likely slaves; Reuben was struck off at the price of eleven hundred and fifty-five dollars, and Henry was struck off at the price of thirteen hundred dollars, amounting in the aggregate to twenty-four hundred and fifty-five dollars. The reason why I enabled to state these facts particularly, is, [that] the papers in the suit in chancery, and my report, are now before me. Deponent considers the value of the slaves Reuben and Henry enhanced by reason of their attainments as musicians, they being distinguished players upon musical instruments. Deponent resides some twenty miles from Dr. Graham, and occasionally has seen them at his, Graham's, house, at the Harrodsburg springs, during the watering season.

The foregoing statements contain the facts touching the matter in controversy; whether the slaves were made more or less valuable by reason of their being permitted to travel about from place to place, is a point which men might differ.

And further this deponent saith not.

THOMAS HELM.

J. Tosso's deposition.

The deposition of Joseph Tosso, taken on the 9th day of April, 1845 who deposes and says:

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by complainant in the case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, I think the value of a slave is greatly enhanced by high musical attainments; and consequently more valuable on that account; I have seen the slaves sued for by the complainant, and think of more value, and particularly so to Dr. Graham, for their musical talents, at the springs where he was in the habit of using them; I think a negro who was possessed of musical attainments, capable of conducting a dancing party in handsome style, worth from three to five hundred dollars more than one not possessed of such attainments.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or play at parties; and whether it would lessen the value of a slave who was a musician to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, I do not think it would depreciate the value of slaves to be sent to different places to play for parties; on the contrary, I think it would improve their playing by practice, and thereby make them more valuable to their master.

3. State if permitting a slave of good character to go twice or three times to Cincinnati, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

Answer, I think it would not.

4. State if the slaves, Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, I cannot say.

5. State if the value of the slaves, mentioned in the complainant's bill, was lessened by the privilege which may have been extended to either by their master.

5. He answers, I think not.

6. State all else you may know favorable to plaintiff.

6. He answers, I sold to the complainant, several years ago, a fine violin with steel bow and a case, and a fine extra keyed clarionet, for one hundred and twenty dollars, which he told me at the time were for the use of his boys.

J. TOSSO.

J. Tosso's deposition.

The deposition of J. Tosso, taken on the 25th day of June, 1845, who deposes as follows:

Interrogatories Nos. 1, 2, 3, 4, 5, 6, and 7, first filed by complainant, (see them copied in Thompson's deposition, pages .)

Deponent answers, that he has before given his deposition in this suit, and he refers to that deposition, and the answer hereafter given to this, as an answer to these interrogatories.

To interrogatories No. 1, 2, 3, 4, 5, and 6, subsequently filed by complainant, (see them copied in Thompson's deposition, pages .)

Deponent answers, that he has heretofore given his deposition in this case, and that he here reaffirms and adopts what he there stated.

Cross interrogatories propounded.

1. State if said slaves were not musicians.

1. He answers, they were musicians.

To 2, 3, 4, 5, 6, and 7, (see them copied in Thompson's deposition, page .)

Deponent answers, he knows nothing.

J. TOSSO.

J. G. Chiles' deposition.

The deposition of John G. Chiles, taken in the town of Harrodsburg, on the 14th May, 1845, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their age, and value of each one? State their complexion, and all you know about them fully.

1. He answers, he says he does, and has known the slaves in controversy for some six or eight years last past; their ages are, from their appearance, from 20 to 24 years each; as to their value, had I owned the springs as did complainant, I would not have taken $1,500 each for them, and have no doubt they would have sold for that sum or more; their complexion is yellow.

2. To whom do they belong; and state who owned them for the last three years.

2. He answers, complainant Graham owned them, and has owned them for four or five years previous to their running off.

3. What has become of said slaves?

3. He answers, they made their escape and went to Canada.

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, he says as well as he recollects they made their escape in the early part of the year 1841; he knows this fact from missing them from the springs, and understanding from complainant and others they had gone.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, I know not who owned the steamboat Pike in 1841.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he says that he has frequently understood that complainant did make several efforts, and some hazardous ones, to regain possession of them; as I have understood he followed them to Canada; and as to the amount of money expended, I have no idea.

7. State any other facts you may know material to complainant.

7. He answers, I think of nothing at this time.

Plaintiff's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case, and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He says he would place a much higher estimate on a slave who possessed such high musical attainments as did those in controversy, than he would upon some not possessing those attainments; as to their enhanced value in consequence of their musical acquirements, I would say, that I have no doubt they would have sold for double as much.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, he thinks from his observation of the conduct and obedience of those slaves, that it would not depreciate their value.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, I would not (those days) allow one of mine to go to Cincinnati, but if I had one who had been there and come back voluntarily, I would put a greater confidence in him in consequence of it.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, he says neither Reuben, Henry, or George, ever evinced any disposition to run off previous to their escape, that he knows or heard of.

5. State if the value of the slaves mentioned in complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, he says that, from my observation of them, their value had not been lessened, if any such privileges were ever extended to them.

6. State all else you may know favorable to plaintiff.

6. He answers, deponent has been a public house keeper for many years past, and has owned many slaves; and knows those in controversy to have been highly accomplished as musicians and dining-room servants, and exceedingly valuable to complainant, and would have sold for a very high price if put in any market; the exact value of them I cannot say, but field men were selling, about the time they run off, for about $1,000; and that I paid for one who was only a common farm hand, about the time they left complainant, the sum of $1,000 on one year's credit.

Cross interrogatories by defendant to be propounded to complainant's witnesses.

1. State if said slaves were not musicians?

1. He answers, he says they were musicians.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering seasons at Harrodsburg?

2. He answers, not that I know or heard of.

3. About what time did said slaves escape?

3. He answers, as well as I now recollect, it was early in 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

4. He answers, never to my knowledge; or did I ever hear of their being at Cincinnati previous to their escape.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, I never heard of their going to Indiana or Ohio.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, the letters are not here, and I know nothing about them.

7. Was not Williams in company with them, when you say you saw them on the Pike?

7. He answers, I never said I saw them or Williams on the Pike.

And further saith not

J. G. CHILES.

J. W. Mays' deposition.

The deposition of J. W. Mays, taken in the town of Harrodsburg, the 9th of April, 1845, who deposes and says:

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you knew the slaves sued for by the complainant in this suit; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, deponent states that he was acquainted with the slaves lately owned by Dr. Ch'r Graham, named Reuben, Henry, and George, and who escaped from his service a few years since. Deponent knew them well for twelve months immediately preceding their escape. He considers that their value was enhanced by their education and accomplishments as musicians.

Deponent considers, that situated as Dr. Graham was, being the owner of a watering establishment, and employing their services as musicians for his ball-room, that their value to him was double, considering also the expense and trouble complainant had undergone to qualify said slaves for the stations they were intended to occupy in his public establishment.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, deponent states that in his opinion, the value of said slaves would not be depreciated by their being permitted to go to Louisville, Versailles, Frankfort, or Danville, under prudent management and guidance. Deponent considers that their occasional visits to the above, or other fashionable places, for the purpose of playing at balls or parties, would tend to increase their knowledge as performers in music, and to keep pace with the changes and improvements in the figures of dancing, and fashionable entertainments of that sort.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, deponent states that permitting a slave of good character to go to Cincinnati, twice or three times, to make music at balls, with a prudent superintendent, would not, in his opinion, diminish their value.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, deponent states that he never saw any disposition evinced by either of said slaves, during the twelve months before their escape, (during which time deponent saw them almost every day and night,) to run off; but, on the other hand, said slaves were gay, lively, and polite, and seemed to be happy and contented.

5. State if the value of the slaves mentioned in complainant's bill was lessened by the privilege which may have been extended to them, or either of them, by their master.

5. He answers, deponent says the value of said slaves was not, in his estimation, diminished by the privileges which may have been extended to them, or either of them, by their master.

6. State all else you may know favorable to plaintiff.

6. He answers, deponent states that he knows of nothing else favorable or unfavorable to the parties, or the plaintiff.

And further says not

JAS. W. MAYS.

J. W. Mays' deposition.

The deposition of J. W. Mays, taken in the town of Harrodsburg, on the 2d of May, 1845, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, state how long have you known them; what is their ages, and value of each one? State their complexion, and all you know about them fully.

1. He answers, that he knew the slaves in controversy in this suit, for more than twelve months immediately preceding their escape from the service of the complainant, who owned them as his property; they were of yellow complexion and likely; of good size; judging from their appearance, they were about 20 or 22 years of age; they were very valuable servants.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, he states that the slaves in question were owned by Dr. Christopher Graham, of Harrodsburg, Kentucky; their names are George, Reuben, and Henry.

3. What has become of said slaves?

3. He answers, he states that said slaves have not been in Harrodsburg since the winter of 1840, '41, and he has been informed that they were in Canada.

4. If you say they made their escape, say when and how you know the fact, and all the facts in relation thereto fully.

4. He answers, he states that he has no personal knowledge respecting the escape of said slaves to the British province of Canada; his information is based on the statements of H. McFatridge, and J. C. Vanarsdall, whose depositions are on file in this suit.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, he states that he does not know who were the owners of the steamboat Pike during the year 1841.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, he states that he has no knowledge of the efforts made by the complainant to regain possession of said slaves; his information is hearsay.

In answer to the six interrogatories subsequently filed, and signed by Wolfe, p. q., (see them copied in Chiles' deposition pages .) Deponent states that his deposition was taken within the month last

past, to be read in this case, which is on file, but is excepted to by defendant. In that deposition, deponent answered fully and fairly the six interrogatories last referred to; he therefore here makes reference to that deposition, and reaffirms, adopts, and approves the same, as if herein cited again, "verbatim et literatim," as part and parcel of this deposition; (for said deposition see pages 229, 230, '1.)

Cross interrogatories by defendant, to be propounded to complainant's witnesses.

1. State if said slaves were not musicians.

1. He answers, that slaves were musicians.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

2. He answers, he says that he does not know how far the privileges of said slaves extended, except from hearsay. He never saw them further from home than Danville, which is ten miles from Harrodsburg.

3. About what time did said slaves escape?

3. He answers, he states that he has not seen said slaves, he thinks, since December, 1840, or January, or February, 1841, at about which time they are reported to have made their escape from their master's service.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati to play as musicians?

4. He answers, he states that he knows nothing of the visits of said slaves to Cincinnati, except from rumor.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, he states that he knows nothing of their being in Louisville with Williams, except from rumor.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, he states that the letters referred to, marked A and B, are not present for his inspection.

7. Was not Williams in company with them, when you say you saw them on the Pike?

7. He answers, he states that he never saw said slaves on the Pike at any time.

And further says not

JAS. W. MAYS.

Peter Davis' deposition.

The deposition of Peter Davis, taken in the town of Harrodsburg, on 10th of April, 1845, who deposes and says:

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave who performs well on the vio-

lin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you knew the slaves sued for by the complainant in this case; and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, deponent states that he lived at the house of Doctor Christopher Graham, in the summer previous to the winter said boys made their escape, that is, Reuben, Henry, and George. Deponent was engaged as a clerk and general superintendent in the establishment of Dr. Chr. Graham, and he knows said boys well, from the time Dr. Graham purchased said boys, up to the time they left his house or made their escape.

Deponent states that said boys, from reason of their high musical attainments, and as dining-room servants, were to Dr. Chr. Graham generally more valuable than they would have been without those qualities. Deponent infers the fact, that they were more valuable, from the fact that he saw the plaintiff offered for each of said boys the sum of $2.000 each, in the year 1839 and 1840. Deponent states that he does not believe that said slaves would have brought any such price without those qualities.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, deponent states that he is of the opinion that the value of said slaves are not depreciated, by reason of having been permitted to go to Louisville, Versailles, Frankfort, or Danville. Deponent is of the opinion that it was necessary for said boys to visit those places occasionally, for the purpose of learning new figures, and learning new cotillons, and more fully to occupy their stations.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, deponent states that permitting a slave to visit Cincinnati, and return home to their owner in the State of Kentucky, would not, in his opinion, make a slave the less valuable, especially if under the guidance of some prudent person.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, deponent states that he saw said slaves every day after they had been to Cincinnati and returned home, if they ever were there, and that he never saw any disposition upon the part of said slaves to run off, or any thing which shewed disquietude.

5. State if the value of said slaves mentioned in complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, deponent states that from what he saw of said slaves, that they *were* not be the less valuable from any privileges allowed them by the complainant, and his opportunities were as good as that of any other person to have judged of their disposition. Deponent has stated all he knows touching this matter.

And further saith not

P. DAVIS.

Deposition of James H. Coleman.

The deposition of J. H. Coleman, taken at the same time and place, who deposes and says:

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case, and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, that he knows said slaves, Henry, Reuben, and George, well, up to the time they made their escape, or a short time previous thereto. Deponent considers them greatly more valuable in consequence of being good musicians, and dining-room servants of the first order.

Deponent has spent a portion of the summer at the house of Doctor Christopher Graham, every year since 1833. Deponent recollects well, that he sold a boy for the sum of $1060, shortly previous to the time said slaves , who was an ordinary field hand, one thousand of the purchase money in cash. Deponent states that this was regarded as an ordinary or fair price for common laborers at that time.

Deponent states that in regard to the other interrogatories he knows nothing material or immaterial for either party.

And further this deponent saith not.

J. H. COLEMAN.

Deposition of J. H. Rice.

The deposition of J. H. Rice, taken at the same time and place, who deposes and says:

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in the case; and state if they were more valu-

able, or less so, because they were musicians; if more valuable, state how much.

1. He answers, he is well acquainted with the slaves in controversy, Reuben, Henry, and George, and has been from the time Dr. Christopher Graham purchased them, up to the time they left, or shortly before that time. Deponent regards them as worth more from the reason of being musicians of the highest order. Deponent resides in Harrodsburg, and has been raised in the town, and has been in the habit of visiting Dr. Graham's house every summer, for several years; is the reason he can speak with such precision in regard to seeing the slaves of in controversy; and the reason why he considers said slaves so valuable as musicians and dining-room servants.

Deponent states he considers them the more valuable, from the fact of his being a student of Bacon College, and knowing that the students paid to Dr. Graham the sum of $50 for the services of said boys, to play for them on a public occasion, at the close of one of the sessions. Deponent recollects that his father paid the sum of $55 for said slaves to play one single night, for a ball at his father's house, in the town of Harrodsburg.

In regard to the other interrogatories, deponent states that he has no knowledge that said slaves ever went to Cincinnati, and if so, he does not consider that it depreciated their value. Deponent states that he does not consider said slaves the less valuable, from any liberties allowed them by Dr. Graham. Deponent being a musician, or well acquainted with the principles of music himself, is enabled to speak in regard to their acquirements as musicians, as he thinks, with more certainty than one who is not acquainted with the principles of music.

Deponent states that he does not consider the slaves less valuable from the fact that they were permitted to go to Louisville, Versailles, Frankfort, or Danville, to play as musicians. Deponent considers it was necessary to keep up with the fashionable music, and the figures and forms of cotillons.

This deponent, having fully stated, further saith not.

JOHN H. RICE.

Deposition of R. D. Harlan.

The deposition of Richard D. Harlan, taken at the same [time and] place, on the 9th of May, 1845, who deposes and says:

1. State whether you do or do not know the slaves in controversy in this suit; if yea, how long have you known them; what is their ages and value of each one? State their complexion, and all you know about them fully.

1. He answers, yes; he has known said slaves all the time that said Graham owned them; their ages I do not know; they seemed to be over twenty, perhaps twenty-two or three; they were yellow boys, very handsome and sprightly. I know them to be very valuable; I cannot

say precisely what they were worth; I should say they would have commanded fifteen hundred dollars a piece at least.

2. To whom do they belong, and state who owned them for the last three years.

2. He answers, they belong to Dr. C. Graham, and have for a number of years; they belonged to him for the last three years before they run away.

3. What has become of said slaves?

3. He answers, they run away, and from every information went to Canada.

4. If you say they made their escape, say when and how you know the fact; and state all the facts in relation thereto fully.

4. He answers, deponent knows nothing about their escape except from information. He is of impression that, among others, a person on board of the Pike at the time of their escape informed him, *informed him* of their being taken up on board said boat from Louisville to Cincinnati, which person was engaged, as he understood, in the service of said boat.

5. Who owned the steamboat Pike during the year 1841?

5. He answers, Strader and Gorman of Cincinnati.

6. State whether complainant ever made any effort to regain possession of said slaves; if yea, state what efforts were made, and the amount of money expended.

6. He answers, deponent always understood complainant made great efforts, and expended a great deal of money, to regain said slaves; but the detail of said efforts he does not know, nor how much money expended.

7. State all other facts you may know favorable to complainant.

7. He answers, he knows nothing more material that he recollects to the parties, in answer to the foregoing question.

Plaintiff's interrogatories subsequently filed.

1. State if the value of a negro slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case, and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, they were fine musicians, and the best sort of musicians he ever heard, and the best the deponent ever saw; he would suppose them much more valuable on that account, of double the value at least; their place is very difficult, if not impossible, to be supplied by Dr. Graham, by hiring *trancient* musicians, or in any other way.

Deponent has been very much at the establishment of Dr. Graham, before and since the escape of said slaves; their musical instruments were very fine, of the first quality; and they played upon a great variety of instruments.

Reuben, the teacher, was a very fine prompter, with a fine clear voice; directed the cotillons, and managed the ball room with great skill, and with unexceptionable manners and deportment. They were also good house servants, fine dining-room attendants.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties; and whether it would lessen the value of a slave, who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, deponent does not think it would lessen their value, and probably would give them additional skill and confidence, and perhaps increase their value.

3. State if the permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, deponent does not know whether it would or not; but if he had a slave who had been to Cincinnati and returned voluntarily, he would have more confidence in him in consequence of it.

4. State if the slaves Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, deponent knew them very well, and has seen them in several towns in Kentucky, where they were permitted to go and play, away from Harrodsburg; and never saw or heard of any disposition or attempts in them to run off or leave their master.

5. State if the value of the slaves mentioned in complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, deponent don't think there was, and from his knowledge of Dr. Graham's government vigilance, he does not believe Dr. Graham would have given them any privilege which would have endangered their safety, or greater facility to their running off.

6. State all else you may know favorable to plaintiff.

6. He answers, in answer to the aforesaid inquiry of complainant, deponent states that he has always understood that Peter R. Dunn, who lives about six miles below Harrodsburg, on the Frankfort road, is an abolitionist, and that he believes *that* the impression or belief of the people of the county, acquainted with Mr. Dunn.

Cross interrogatories by defendant to be propounded to complainant's witnesses.

1. State if said slaves were not musicians?

1. He answers, they were very fine ones.

2. Did not Mr. Graham allow them to travel about where they pleased, except during the watering season at Harrodsburg?

2. He answers, deponent understood from Dr. Graham before they went off, that since he had taken them from Williams, he allowed them to go only to the towns adjacent to Harrodsburg, and that they were never allowed to go nearer the Ohio river than Lexington or Frankfort.

3. About what time did said slaves escape?

3. He answers, early in the year 1841.

4. Previous to their escape, as you term it, did not Mr. Graham allow them to go to Cincinnati, to play as musicians?

4. He answers, does not know that he ever did.

5. Did he not allow them to stay with Williams, and to play for him, and to go with him to Indiana and Ohio, to play?

5. He answers, does not know that he ever did; that he allowed them to learn music under Williams; the boys were under Williams' tuition; but further as to the question he does not know.

6. Examine the letters of Graham on file, marked A and B, and state if they are in his handwriting, or signed by him.

6. He answers, don't know about such letters.

7. Was not Williams in company with them, when you say you saw them on the Pike?

7. He answers, never saw them on the Pike.

And further saith not

R. D. HARLAN.

Deposition of L. L. Shreve.

The deposition of L. L. Shreve, taken in the city of Louisville, on the 7th of April, 1845, who deposes and says:

1. State if the value of a slave is enhanced by high musical attainments. Is or is not a negro slave, who performs well on the violin, and who would compose a valuable part of a company of musicians, more valuable on that account? State if you know the slaves sued for by the complainant in this case, and state if they were more valuable, or less so, because they were musicians; if more valuable, state how much.

1. He answers, in a proper subject, and a slave of proper qualities and attributes, a knowledge of music would be a valuable attainment; as *as* such as those who *kneed* such services, servants who possessed such qualities and attainments would be decidedly more valuable on that account; such, deponent believes to be the condition of complainant, from the character of his situation and pursuits; but deponent cannot state what such additional value would be.

2. State if it would depreciate the value of a slave living in the interior of Kentucky to be sent to Louisville, under the guidance of a prudent overseer, to learn music, or to play at parties. And whether it would lessen the value of a slave, who was a musician, to be permitted to go to Versailles, Frankfort, or Danville, Kentucky, occasionally to play at parties, when a prudent person was charged with the management of them.

2. He answers, this he thinks depends entirely upon the character of the slave, and he thinks he cannot give a more definite answer, than that indulgence sometimes improves slaves, whilst, at other times, it is injurious to them.

3. State if permitting of a slave of good character to go to Cincinnati, twice or three times, to make music at balls or parties, would lessen his value, provided he was placed under the guidance of a prudent superintendent.

3. He answers, knowing what he does about Cincinnati, and the influence there upon slaves, he would never permit one to go there.

4. State if the slaves, Reuben and Henry, or George, if George ever was at Louisville, ever evinced a disposition to run off, after they returned from Versailles, Frankfort, Danville, or Louisville.

4. He answers, he has no knowledge.

5. State if the value of the slaves mentioned in complainant's bill was lessened by the privilege which may have been extended to either by their master.

5. He answers, he has no knowledge.

6. State all else you may know favorable to plaintiff.

6. He answers, he can state nothing further on the subject.

And further says not

L. L. SHREVE.

The depositions taken on the part of the defendants, are as follows, to wit:

Deposition of J. C. Buckles.

The deposition of J. C. Buckles, taken on the 19th of April, 1842, who deposes and says:

1. State under whose direction the steamboat Pike has been run for a long time past, as master.

1. He answers, the steamboat Pike is now, and has been for some time, commanded by Captain John Armstrong.

2. Are not the defendants, Strader and Gorman, in the habit of running on said boat?

2. He answers, Strader and Gorman do not run on the Pike; are owners of the boat.

3. Where does said boat belong, and where is her regular trade?

3. He answers, said boat belongs to Strader and Gorman of Cincinnati, and her regular trade is between Louisville and Cincinnati.

4. Did or did not complainant Graham ever talk with Captain Armstrong respecting an alleged loss of his slaves, as set forth in his bill; if so, on how many different occasions; and when did Graham say they escaped?

4. He answers, I don't know.

5. Who was present in a situation to hear said conversation?

5. He answers, I don't know.

6. Is it or is it not true that, in any conversation, Captain Armstrong admitted to complainant that (complainant's) slaves were carried away on the steamboat Pike?

6. He answers, I don't know.

7. State what is the custom on the steamboat Pike about carrying negroes.

7. He answers, the custom on said boat is, that no negro is permitted to go on said boat without a responsible person, known to the captain, who vouches for their being slaves or free persons of color, and the captain is so particular as not to receive passes as evidence; none but a known personal voucher is received.

8. Are or are not the officers of said boat very strict and vigilant in preventing negroes from travelling on said boat?

8. He answers, they are very particular and vigilant; and the boats are regularly searched after getting under way, and if negroes are found, who have gotten on board without being known, they are either put in jail on the Kentucky side or brought back to Louisville.

9. Did or did not complainant allow the slaves George, Reuben, and Henry, to travel about as free men.

9. He answers, the complainant informed me in conversation with him, when on his way to Canada after his negroes, that he allowed them to travel about at large, and play, in order that they should not become rusty, or keep their hands in; that he had no idea they would leave him; he had great confidence in them; this was in answer to my remarks, as I had censured him for giving them such liberty; he said that they were to give him what they could make after paying their expenses; they were to be at home during the watering season.

10. Were or were not said hands in the habit of playing at parties as a band of musicians, and receiving the pay therefor?

10. He answers, I never saw them at parties as players, but I learned from Dr. Graham this was their habit.

11. Did or did not complainant annually allow them to travel about when and where they pleased, except during the watering season at Harrodsburg?

11. He answers, that the Doctor so informed me at the time before named, and which I have answered in 9th interrogatory.

12. State what would have been the probable expense in 1841 for a man to travel from Harrodsburg, Kentucky, through Ohio, to the Canada shore, and thence to return.

12. He answers, I answer, that I suppose the travelling expenses would cost from $150 to $200, or thereabouts; the expenses of bringing the slaves from Canada would be, I suppose, in and about $150 to $200.

13. Has or has not complainant recovered said slaves?

13. He answers, I don't know if the complainant has recovered his slaves.

And further this deponent saith not.

J. C. BUCKLES.

Deposition of John W. Russell.

The deposition of John W. Russell, taken in the city of Louisville, on 21st of April, 1845, who says:

1. Do you know the slaves, Reuben, and Henry, and George, in the complainant's bill mentioned?

1. He answers, he has seen the three boys said to have belonged to Dr. Graham, and has heard them play; but he cannot distinguish their names, and thinks he has seen them playing about at different places without their master being present.

2. If yea, state what would have been their value in January 1841, if they had been obedient and faithful servants.

2. He answers, negro property in 1841 was very cheap; he supposes these boys of Dr. Graham were worth at that time from $500 to $700 each, but has at all times looked upon such boys as dangerous property; they were more subject to contract bad notions, particularly so if they were permitted to roam about.

3. Do or do not servants who are allowed by their master to go at large and not subject to control, ordinarily become less valuable?

3. He answers, he thinks such is the invariable result, and he has scarcely known an instance where slaves were permitted to roam about uncontrolled, that such slaves did not finally escape, particularly so if they were musicians; for he has known a number of musicians who have run away.

4. Does or does not the allowing servants to roam about or to hire their own time, tend to make them runaways?

4. He answers, he thinks it does in a very eminent degree, and, as he has before stated, particularly so if they are musicians; generally, greater facilities for contracting bad and dangerous habits are offered to musicians than to other slaves; their associations tend to elevate their senses, and their musical qualities please the public, and more clemency is exhibited towards them by the public than if they were not musicians.

5. Do you know how complainant managed said slaves?

5. He answers, he does not, further than stated.

6. With their dispositions and habits in January, 1841, what were they reasonably worth?

6. He answers he does not know.

7. What would you say the said boys were worth in 1841, if they had at that time conceived the idea of escaping to Canada, and determined to do so?

7. He answers, if said boys had conceived the idea of escaping to Canada in January, 1841, deponent would not give one dollar for them; he would not buy such, and he considers them valueless, unless to some one who trades in negroes, who would purchase them and put them in jail, and send them to the lower country; and he has never known any negroes to have been sold in that country on account of their musical qualities, and has no idea what such would be worth

there; though servants of that kind, carried to that country under such circumstances, he does not suppose would be very valuable. From his knowledge of traders in negroes, he thinks they would not give for such negroes, under such circumstances, more than two thirds the ordinary price of a common field hand.

8. State any other facts you may know material for defendants.

8. He answers, if a negro had determined to run away and escape, the greater his sense and attainments, the less valuable such negro would be.

And further says not

JOHN W. RUSSELL.

Deposition of Peter R. Dunn.

The deposition of P. R. Dunn, taken on the 15th day of April, 1845, in the city of Louisville, who deposes and says:

1. Do you know the boys Reuben, and Henry, and George, in the complainant's bill mentioned.

1. He answers, I know that Dr. Graham had such boys, and occasionally saw them in Harrodsburg passing about, and I may have seen them elsewhere, but do not now recollect; I had no particular acquaintance with them; I live within six miles of Harrodsburg.

2. If yea, state what would have been their value in January, 1841, if they had been obedient and faithful servants.

2. He answers, I cannot say as to their value at that time, but think good servants could have been bought at that time in Mercer county for about $600 to $700.

3. Do or do not servants who are allowed by their master to go at large, and not subject to control, ordinarily become less valuable?

3. He answers, servants allowed to run at large by their masters, and but little controlled, become generally of little value, and sometimes of no value.

4. Does or does not the allowing servants to run about or to hire their own time, tend to make them runaways?

4. He answers, servants allowed to roam at large and hire their own time, has a very great tendency to make them run away.

5. Do you know how complainant managed said boys?

5. He answers, I do not know how complainant managed said boys in 1841, but understood, and believed it was generally understood in Harrodsburg, that said boys were allowed to go and come at pleasure, except during the watering season.

7. What would you say the said boys were worth in January, 1841, if they had at that time conceived the idea of escaping to Canada, and determined to do so?

7. He answers, I would have considered them of but little value, indeed of almost no value, unless taken up and confined [in] jail, until they could have been sold into a southern market.

8. State any other facts that you may know material for defendants.

8. He answers, I do not consider their being musicians adds any thing to their value as servants.

P. R. DUNN.

Deposition of F. S. J. Ronald.

The deposition of F. S. J. Ronald, taken in the city of Louisville, on the 5th of June, 1845, who deposes and says:

1. Do you know the slaves, Reuben, and Henry, and George, in the complainant's bill mentioned?

1. He answers, he don't know that he knows the boys alluded to.

2. If yea, state what would have been their value in January, 1841, if they had been obedient and faithful servants.

2. He answers, he don't know.

3. Do or do not servants, who are allowed by their master to go at large, and not subject to control, ordinarily become less valuable?

3. He answers, negroes who are permitted to go about uncontrolled, do become less valuable than those who are controlled by their masters. Deponent does not consider that musical attainments add any thing to the value of negroes; the fact that a negro possessed, or had musical attainments, he does not conceive to be an objection or render such negro less valuable on that account; for specified or particular purposes, a negro possessed of musical attainments would be worth more than if not possessed of such attainments; but, in the ordinary market, he thinks such attainments would not enhance the value of such negro.

If negroes were allowed to dress up and go about and play at parties and balls, he thinks they become less valuable; many persons would take them to be free, and their chances of escape would be thereby increased if they were disposed to run away; and he thinks their disposition to escape would be increased in being thus permitted to mix in company.

Deponent's observation has led him to believe that the habits of such negroes become worse and worse, until they most generally escape.—Deponent has known several instances in which such slaves have run away and escaped.

4. Does or does not the allowing servants to roam about or to hire their own time, tend to make them runaways?

4. He answers, if negroes are permitted to go about and play at parties and balls, and to mix in company, the almost inevitable result is, that they will become runaways and make their escape.

5. Do you know how complainant managed said boys?

5. He answers, he does not.

6. With their dispositions and habits in January, 1841, what were they reasonably worth?

7. What would you say the said boys were worth in January, 1841, if they had at that time conceived the idea of escaping to Canada, and determined to do so?

6 & 7. He answers, if these negroes, (whom deponent don't know,) were permitted to play about at parties, or to go about without some master or person to supervise and control them, and if they had conceived the idea of escaping, he thinks all their smartness and accomplishments would detract from their value, because a smart accomplished negro who is a musician has a better chance to escape than a negro without such attainments has. He means, by the supervision above alluded to, not such as would be given by a musician, but such as a prudent master would give to his slave.

8. State any other facts that you may know material for defendants.

8. He answers, the value of such negroes as above described, he thinks, would be small, except for the purpose of selling to negro traders, and he does not believe that their value to such traders would be enhanced any in consequence of their being musicians.

And further saith not

F. S. J. RONALD.

Deposition of Aris Throckmorton.

The deposition of Aris Throckmorton, taken in the city of Louisville, on the 6th of May, 1845, who deposes and says:

1. Do you know the boys Reuben, and Henry, and George, in the complainant's bill mentioned?

2. If yea, state what would have been their value in January, 1841, if they had been obedient and faithful servants.

1 & 2. He answers, he recollects Dr. Graham's boys, who were playing about Louisville with Williams, but does not recollect their names. He cannot state the value of such boys at that time; they were very likely boys, and if they had been faithful boys and belonged to him, he would not have taken a $1000 a piece for them.

3. Do or do not servants who are allowed by their masters to go at large, and not subject to control, ordinarily become less valuable?

3. He answers, yes.

4. Does or does not the allowing servants to roam about, and to hire their own time, tend to make them runaways?

4. He answers, yes; he supposes in nine cases out of ten.

5. Do you know how complainant managed said boys?

5. He answers, he does not; he has seen them about Louisville repeatedly.

6. With their dispositions and habits in January, 1841, what were they reasonably worth?

7. What would you say the said boys were worth in January, 1841, if they had at that time conceived the idea of escaping to Canada, and determined to do so?

6 & 7. He answers, he did not see them in January, 1841, and is not sufficiently acquainted with the circumstances to say what they were worth. If said boys had conceived the idea of going to Canada, they were worth to their master, provided they were sound, just what

a negro buyer would have given for them for a southern market, which he thinks would be $600; but if they had conceived such a determination, and the master did not know it, so as to be able to secure them, he thinks they would be worth nothing to him to be kept here; but he thinks they would be worth $600 each for a southern market.

And further says not

ARIS THROCKMORTON.

Deposition of B. H. Bowman.

The deposition of Benjamin H. Bowman, taken in the town of Harrodsburg, on 13th of August, 1845, who says:

1. Do you know the boys Reuben, and Henry, and George, in complainant's bill mentioned?

2. If yea, state what would have been their value in January, 1841, if they had been obedient and faithful servants.

1 & 2. He answers, he says he knew the slaves Reuben, Henry, and George, mentioned in complainant's bill; that he supposes they were worth in the month of January, 1841, about eight hundred or a $1000 each.

3. Do or do not servants who are allowed by their master to go at large, and not subject to control, ordinarily become less valuable?

3. He answers, he says *they* believe they do.

4. Does or does not the allowing servants to roam about, or to hire their own time, tend to make them runaways?

4. He answers, I believe it does.

5. Do you know complainant managed said slaves?

5. He answers, I have always understood that he suffered them to go where they pleased, except during the watering season at the springs.

6. With their dispositions and habits in January, 1841, what were they reasonably worth?

7. What would you say the said boys were worth in January, 1841, if they had at that time conceived the idea of escaping to Canada, and determined to do so?

6 & 7. He answers, if they had at that time conceived the idea of leaving and going to Canada, and determined so to do, owing to the liberty allowed them, it would have been so easy a matter for them to have escaped, and so difficult to have recovered them after they had thus escaped, that I would consider them worth comparatively nothing.

8. State any other facts that you may know material for defendants.

8. He answers, he says that he lives in Harrodsburg, and has lived there, or at least made that his home, for five or six years.

And further says not

BEN. H. BOWMAN.

Deposition of Geo. N. Cardwell.

The deposition of George N. Cardwell, taken at the same time and place, who deposes and says:

1. Do you know the boys Reuben, and Henry, and George, in the complainant's bill mentioned?

2. If yea, state what would have their value in January, 1841, if they had been obedient and faithful servants.

1 & 2. He answers, as to those questions he refers to his deposition given some time in this same suit.

3. Do or do not servants who are allowed by their masters to go at large, and not subject to control, ordinarily become less valuable?

3. He answers, in my opinion they do become less valuable.

4. Does or does not the allowing servants to roam about or hire their own time, tend to make them runaways?

4. He answers, I think it does.

5. Do you know how complainant managed said boys?

5. He answers, he allowed them to go about, but were under the control of Williams, as I have always understood, except during the watering seasons at the springs.

6. With their dispositions and habits in January, 1841, what were they reasonably worth?

7. What would you say the said boys were worth in January, 1841, if they had at that time conceived the idea of escaping to Canada, and determined to do so?

6 & 7. He answers, if they had conceived the idea of escaping to Canada, and determined to do so, they were worth comparatively nothing.

8. State all other facts that you may know material to defendants.

8. He answers, my recollection is, that good field hands were worth [from] seven to $800 about the time they run off. I have been living in Harrodsburg since the month of January, 1831.

And further says not

GEO. N. CARDWELL.

Appeal bond.

Know all men by these presents that we, Jacob Strader, James Gorman, and John Armstrong, and James Thompson, are held and firmly bound unto Christopher Graham in the penal sum of $6000, for the payment whereof, well and truly to be made, we bind ourselves, our heirs, &c., jointly and severally, firmly by these presents. Signed with our hands and sealed with our seals, this 1st day of December, 1845.

The condition of the above obligation is such, that whereas a suit was lately instituted in the Louisville chancery court by the above named Christopher Graham, against the above bound Strader and Gorman, and Armstrong, owners of the steamboat Pike; and such proceedings were had in said cause, that on the 4th day of November, 1845, an order was made in said cause, which, on the 28th of said month, was agreed should be taken and considered as a final decree, and from which an appeal might be had, &c.; and the above bound Strader and Gorman, and Armstrong, prayed an appeal to the court of appeals,

which was granted them upon their entering into this bond within twenty days, in the penalty and with the surety and condition above named.

Now, should the said Jacob Strader, James Gorman, and John Armstrong, duly prosecute said appeal, then this obligation to be void, else remain in full force and effect.

Witness: CH. J. CLARK, *Clerk*.

[SEAL.]
[SEAL.]
[SEAL.]
JAS. THOMPSON. [SEAL.]

COMMONWEALTH OF KENTUCKY,
Louisville chancery court, sct:

I, Charles J. Clark, clerk of the court aforesaid, do hereby certify, that the preceding ninety pages (this included) contain a full and complete transcript of the record and proceedings had in the cause between the parties therein named, as directed to be made by the statute, and the instructions of the judges of the court of appeals under it.

Given under my hand at my office in Louisville, the 13th day of January, 1846, and in the 54th year of the commonwealth.

CH. J. CLARKE.

Strader, Gorman, and Armstrong, the appellants, assigned the following errors, to wit:

Errors.

The appellants jointly and severally say, that manifest error to their prejudice was committed by the Chancellor during the progress, and upon the trial of the cause, and in the decree rendered, as appears on the face of this record, for which, and for each of which, they jointly and severally ask a reversal of the decree, and such corrections of the errors as may be appropriate.

And they assign the following errors, to wit:

1. The Chancellor erred in refusing the several instructions asked by the defendants on the trial before the jury. Appellants aver that each instruction asked by them ought to have been given.

2. The Chancellor erred in each and every one of the instructions which he did give to the jury; and by refusing the instructions asked, and giving the instructions he did, misled the jury to appellants' prejudice.

3. The Chancellor erred in permitting improper and illegal testimony to go before the jury, when objected to by defendants severally.

4. The Chancellor erred in refusing to set aside the verdict and grant a new trial as asked by defendants. They say, that for each of the causes assigned such new trial ought to have been granted.

5. The decree ought to have dismissed the bill; and it ought not to have given the complainant what he was allowed by the decree. The whole record did not justify the decree as rendered.

6. The Chancellor erred in decreeing that the negroes referred to in the bill were not free; and he erred in giving effect and force to the pretended act of the Legislature of Kentucky, which is repugnant to, and in conflict with, the Constitution of the United States, and the acts of Congress made pursuant to, and by authority of, the Constitution of the United States; and he manifestly deprived defendants of a just and valid defence, which was good under the Constitution of the United States, and the ordinance of Congress of 1787, touching the territory northwest of the Ohio river, and providing that there should be no slavery or involuntary servitude therein.

7. The Chancellor erred in each and every opinion and decision given and expressed to the prejudice of appellants during the progress, and upon the trial of the cause, and in rejecting Armstrong's deposition.

By the writing which complainant gave to Williams, and by Williams taking the negroes therein named to Ohio and to Indiana, to play at balls in Indiana and Ohio for Williams, who received pay therefor with assent of Graham, did give freedom to the slaves therein named; and the said slaves being the same mentioned in the writing proved by J. Everett's deposition, became free by the Constitution of the United States, and the acts of the Congress of the United States; and there was afterwards no power to reduce them again to slavery; and the Chancellor erred by depriving the appellants of this good and valid defence as to said negroes, and by holding appellants bound to pay for those negroes as slaves.

DUNCAN, *P. Q.*

Orders—cause read.

At a court of appeals continued and held on the 27th day of June, 1846, came the appellees and submitted the case to the court as a delay case; but they not being sufficiently advised, took time.

And on the 10th day of July, thereafter, the court overruled the motion to affirm the decree as a delay case.

And at a court of appeals continued and held on the 16th of October, 1846, the cause was argued in part, and on the next day it was fully argued; but the court not being sufficiently advised, took time.

And at a court of appeals held on the 28th day of July, 1847, the cause was reheard, and the court took time, &c.

And at a court of appeals continued and held on the 4th day of October, 1847, the court being sufficiently advised, delivered the following opinion and decree, to wit:

Opinion of the court of appeals.

The facts of this case are sufficiently stated in the opinion rendered, when it was formerly in this court, and reported in 5th B. Monroe, 173.

In that opinion the principles applicable to the whole case, as then appearing, were carefully considered and fully stated. The case now presents essentially the same facts, and must be governed by the same principles. A few questions, however, made on the trial after the return of the cause to the Louisville chancery court, were not presented when the case was formerly here. We shall proceed briefly to notice such of these as require comment.

1. Armstrong, the master of the boat at the time of the alleged asportation of Graham's slaves, having been made a party as directed by this court, there was a general order for retaking depositions. In some few of the depositions then retaken, the witnesses referred to their former depositions, affirming that the statements therein were true, and adopting them as their present deposition; most of which statements were also in substance reiterated in the second deposition. The court allowed the former depositions thus referred to to be read as evidence against the objection of Armstrong, and the propriety of so doing is now made a question. We are of opinion, that as Armstrong had in these cases the right and the opportunity of cross examining the witnesses as to all the statements contained in the depositions referred to, such depositions were properly admitted as evidence against him, and that he was not prejudiced thereby.

2. The other defendants, besides Armstrong, offered *his* deposition, taken before he was made a party as evidence in their favor; but being objected to, it was rejected. The same deposition had been suppressed by the Chancellor before the first trial, on the ground that Armstrong had executed the bond by which the boat had been replevied; upon which this court, in the former opinion, remarked that "the deposition of Armstrong not having been objected to, should not have been rejected." The implication is, that if objected to it should have been rejected. But considering the question as an open one, we are of opinion that the deposition was inadmissible, even if Armstrong had not been made a party, not only because being bound for the performance of the decree, he was interested in the result, but also because the bill sought to make the defendants, the owners of the boat, liable, by subjecting the boat to sale for damages, arising from the misconduct or neglect of Armstrong as their agent. If he improperly permitted the slaves to go on board, and the owners of the boat were thereby subjected to a decree for damages, he was liable to them for the loss which his act or neglect occasioned, and the decree would be evidence against him of the fact and amount of recovery. If there should be no decree, there would be no loss to them, and no consequent liability on his part. Under these circumstances, the question being as to the misconduct or neglect of the agent, he is an incompetent witness for his principals: Railroad Company vs. Kidd, (7 Dana, 251; 3 Starkie on evidence, 1231–2; 1 Greenleaf's evidence, 461–2.)

Moreover, Armstrong was directed to be made a defendant, presumably on the ground of interest, and whatever interest he had, was not acquired after his deposition had been taken, but existed at the time.—The question, therefore, does not depend upon the effect of an after ac-

quired interest; but he was interested, and therefore incompetent, at the time; and his deposition was properly rejected.

3. Every question made on the last trial by instructions asked, or given, or refused, had been made on the first trial; and being presented by the record as formerly before us, was decided either expressly or in effect by the former opinion. With regard to the criterion of damages particularly, and to the liberties which had been allowed to the slaves, and to the effect of their transient visits to Ohio and Indiana; the former opinion was explicit, and its principles were strictly observed by the Chancellor on the last trial.

There is therefore no room for further question in this court upon this part of the case. Having seen, however, that in another case, so much of the opinion formerly rendered in this case as discusses the effect of a transient visit, made by master and slave, to a State in which slavery is prohibited by the fundamental law, has been supposed to involve the principle or influence, (so far, at least, as the opinion of the writer was concerned,) that the slave, though once free by reason of such visit, becomes a slave again by a voluntary return to Kentucky, we take this opportunity of relieving the opinion from such a misconstruction. The opinion contains no concession, either express or implied, that the slaves in question were ever free, or could properly have become so by being temporarily in a free State, with their master, or other citizen of this State, having control over them. On the contrary, it is clearly and repeatedly stated, that the court does not admit, that in consequence of such a fact, and by force of the mere general prohibition of slavery in the fundamental or declaratory law of the State which might be thus visited, the relation of master and slave, as existing under the laws of their own State, would be affected. And a question is made even as to the effect to be given here, to the decision of a tribunal in the free State, which upon the appeal of the slave there should have declared him free.

It is true, the fact that the slaves had voluntarily returned with their master or his representative, was considered of some importance, not as affecting the general question of the effect of the foreign law, but rather as excluding that question from this case, or, at least, of conclusively relieving the case from the operation of that law. And it was deemed material in a case of this character, that even those jurists who maintained that by an appeal to the foreign law, while within its jurisdiction, the slave, though taken there with his master for a temporary purpose, may obtain the benefit of that law, concede that, if he voluntarily return with his master to his own country, without such appeal, he is still a slave by its laws.

It is to be observed, too, that in this case the law could be judicially pronounced only in reference to the facts of the case, of which the voluntary return of the slaves was one. And if any discrimination should be made in the consideration of that opinion, whereby one portion or principle should be ascribed to the judge who wrote it, rather than to the court, (for which, however, there was no ground in that case,) it would seem more reasonable to ascribe to the court the decision of the

very question presented by the case, including all its facts, and to the judge who wrote the opinion the reason given in support of it, or any general discussion relating to it.

Decree.

Perceiving no error in the present record to the prejudice of the appellants, the decree is affirmed, and that the appellants pay to the appellee ten per centum damages on the amount of the decree, which is ordered to be certified to said court.

And it is further decreed that the appellants pay to the appellee his costs herein expended.

STATE OF KENTUCKY, *sct:*

I, Jacob Swigert, clerk of the court of appeals for said State, do certify, that the foregoing 265 pages contain a true, full, and complete transcript of the record and proceedings had in the case therein mentioned.

In testimony whereof I have hereto set my hand and affixed the [SEAL.] seal of office, this 15th December, 1847, and in the 56th year of the commonwealth.

J. SWIGERT, *C. C. A.*

Fee for this record $58 00, for Strader, &c.

THE UNITED STATES OF AMERICA:

The President of the United States of America, to the judges of the [SEAL.] court of appeals in and for the State of Kentucky, greeting:

That, because in the record and proceedings, and also in affirming a decree of the Louisville chancery court, wherein Christopher Graham was complainant, and Jacob Strader, James Gorman, and John Armstrong, were defendants; and by the affirmance of said decree, manifest error hath intervened to the great damage of the said Jacob Strader, James Gorman, and John Armstrong, as in their complaint has been alleged; and as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice be done to the parties in this behalf: You are hereby commanded, that if a decree be given him, under your seal, you distinctly and openly send the record and proceedings in the suit aforesaid, with all things concerning them, and this writ, so that you have the same before the chief justice and associate justices of the Supreme Court of the United States, on the first Monday in December next, in the city of Washington, the present seat of the National Government; that the record and proceedings aforesaid being inspected, that they may cause to be done thereupon what of right ought to be done.

Witness Roger B. Taney, esq., chief justice of the Supreme Court of the United States, at the city of Washington, this 8th day of October, A. D. 1847, and in the 72d year of our independence.

Att: JNO. H. HANNA.

Allowed by THOMAS A. MARSHALL,
Chief Justice of Kentucky.

To Christopher Graham.

Whereas a writ of error hath been issued by the clerk of the eighth circuit court of the United States of America, in and for the Kentucky district, on behalf of Jacob Strader, James Gorman, and John Armstrong, returnable to the Supreme Court of the United States, on the first Monday in December next, to reverse a decree decided in the court of appeals for the State of Kentucky, wherein the said Jacob Strader, James Gorman, and John Armstrong, were appellants, and the said Christopher Graham, of the Commonwealth of Kentucky, was appellee. These are therefore to cite and command you, that you be and appear in the Supreme Court of the United States, at the city of Washington on the day aforesaid, then and there to hear the error assigned for the affirmance of the said decree, and to be heard, if any thing you have to say, upon the said writ of error.

Witness my hand as chief justice of the court of appeals of the Commonwealth of Kentucky, this 8th day of October, A. D. 1847, and the 56th year of the commonwealth.

THOMAS A. MARSHALL,
Chief Justice of Kentucky.

Executed October 20th, 1847, on Christopher Graham.

G. H. JETT, *D. M.*
For JNO. LANE, *M. K. D.*

October 25th, 1847.

Marshal's fee,

Ex. citation - - - -	$2 00
40 miles travel - - - -	2 00
	$4 00

Filed 12th Feb., 1848.